

DISTRICT OF COLUMBIA OFFICIAL CODE

2001 Edition

TITLES 2 and 3

**Government Administration
(Chapters 6 to End)**

District of Columbia Boards and Commissions



**40th ANNIVERSARY
of
HOME RULE**

DISTRICT OF COLUMBIA

OFFICIAL CODE

2001 EDITION

Containing the Laws, general and permanent in their nature,
relating to or in force in the District of Columbia (Except such
laws as are of application in the General and Permanent
Laws of the United States) as of September 13, 2012.

VOLUME 4

Title 2

Government Administration
Chapters 6 to End

to

Title 3

District of Columbia Boards and Commissions



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Foreword to 2013 Commemorative Set

LexisNexis presents the 2013 republication of the District of Columbia Official Code, 2001 Edition to the D.C. bench and bar and to the citizens of the District of Columbia in a sincere belief that it will prove a material contribution to the orderly and efficient conduct of the government of the District and to the practice of law. LexisNexis is proud to help commemorate the 40th anniversary of Home Rule for the District of Columbia.

LexisNexis continues its tradition of excellence with its District of Columbia Official Code, 2001 Edition. This 2013 Volume 4 replaces any existing Volume 4 of the 2001 Edition and its 2012 Supplement, both of which may now be discarded, recycled, or retained for historical reference. Future supplements will be keyed to this 2013 Volume and not to any of its predecessors.

The District of Columbia Official Code, 2001 Edition, represents the eighth compilation of the laws of the District of Columbia and reflects an extensive renumbering of the 1981 Edition. Users should consult the historical citations at the end of each statute, and corresponding amendment notes, as guides to legislative currency. Research features such as case annotations, section references, effect of legislation notes, editor's notes, and the comprehensive index have been prepared by LexisNexis. Your set is kept up to date through regular supplementation, free access to the on-line Official Code at <http://www.lexisnexis.com/hottopics/dccode> and the periodic replacement of volumes. All case citations are Shepardized for accuracy and continued relevance. LexisNexis also publishes a District of Columbia Advance Legislative Service (ALS). The ALS gives you the latest session laws as they are passed, along with tables showing you which sections of the Code are affected.

We actively solicit your comments and suggestions. If you have questions or comments about the statutes, or if you have suggestions regarding index improvements, please write to us or call us toll-free at 1-800-833-9844; fax us toll free at 1-800-643-1280; E-mail us at customersupport@bender.com; or visit our website at <http://www.lexisnexis.com>. By providing us with your informed comments, you will be assured of having a working tool which increases in value each year.

LEXISNEXIS

June 2013

PREFACE TO THE 2001 EDITION

The 2001 Edition of the District of Columbia Official Code marks the eighth time that a compilation of the laws of the District of Columbia has been published by, or under the authority of, the government of the District of Columbia or that of the United States. The District of Columbia Code was first published in 1929; eleven years later, the Second Edition (1940) was published; another eleven years later, the Third Edition (1951); ten years later, the Fourth Edition (1961); six years later, the Fifth Edition (1967); another six years later, the Sixth Edition (1973); and 8 years later, the Seventh Edition (1981) was published. The time between the publication of the Seventh Edition and this Eighth Edition represents the longest period, by almost a decade, that the District of Columbia Code has gone unrevised in its 72 year history.

The District's Charter, which in 1973, established the current tripartite government of the District of Columbia, makes it incumbent upon the legislative branch to publish and codify every act of the Council, as the Council directs, upon becoming law, so that the residents of the District may have ready access to the laws by which they are governed. In 1973, however, the framers of the District's constitution could not have foreseen the incredible technological advances that would occur in the next 25 years nor the impact they have on the Code.

With the close of the 20th Century the world has witnessed the triumph of the Information Age, the rise of the World Wide Web, and the explosion of word processing and data storage technology. These phenomena have helped make the reproduction of legal text and data a fast, easy, and inexpensive enterprise, giving rise to a plethora of publishing mediums, and have made it a relatively simple task to reproduce existing legal text, including the District of Columbia Code. The rapid rise of the Computer Age has allowed virtually anyone with an ordinary personal computer to reproduce and compile the laws of the District of Columbia.

The laws of the District, however, are fluid, not stagnant, as they are amended several times each year. The quality and accuracy of publications not directed by the Council are beyond its control. The Council can only warrant the Code for which it has authorized publication. Therefore, in order to ensure that the residents of the District may distinguish between the compilation of District laws as produced under the direction of the elected officials of the District of Columbia and those of other persons, we have added the word "Official" to the title of the Code. Also to ensure that the Council never loses the right to publish its own laws, the government of the District of Columbia has retained the copyright to the District of Columbia Official Code.

The codified laws of the District of Columbia are created as a result of legislative action on the part of 13 individuals elected by the residents of the

District of Columbia to enact the laws that govern the District, and by the Congress. Once the legislative process is complete, the Council, through its delegation of authority to its Office of the General Counsel, codifies the laws in the form of this Code. In the process of codification, the Office of the General Counsel interprets any discrepancies in the drafting of the laws using commonly recognized rules of statutory construction. No other entity is authorized by law to make these determinations. As set forth by federal law and recognized by the Courts of the District of Columbia, this Code establishes *prima facie* evidence of the laws in force in the District of Columbia.¹ It is this continuity of authority, from enactment to codification to judicial review that gives this Code its authenticity and officiality as the content of the laws of the District of Columbia.

The 2001 Edition represents a recodification of the 1981 Edition in that it contains a reorganization of the presentation of the laws, inclusion of some previously omitted legal provisions, and the omission of non-substantive extraneous provisions. The theory behind the recodification is to purify the organization of the Code which over many decades has seen the haphazard mixing of original (“organic”) provisions of laws throughout the Code. In the 2001 Edition, we have established a system of codification that follows the legislative drafting principals established over many years in the Council’s Office of the General Counsel.

The recodification is not an overhaul of the Code. Although a cleanup of the antiquated, repealed and omitted provisions is long overdue, it is not the province of the Office of the General Counsel to determine which laws should be expunged as obsolete. Such decisions should be left to a working group commissioned by the Council to recommend revisions to the Code. The Office of the General Counsel has simply separated the organic laws into discrete divisions and topical categories. As much as is possible, we have followed a rule that requires that all organic law remain intact: closely following the layout of the originating act. We have retained notes to repealed sections to aid in legal research and preserved the numbering style that was first introduced in the Second Edition. Thanks to the resourcefulness of the publisher and the Council’s Office of the General Counsel staff, we have corrected provisions of law erroneously added to, or deleted from, prior editions.

The Code is organized into eight Divisions of practical law: government organization; judicial organization; decedent estates; criminal law; business law; education; property; and general laws. Each division is subdivided by subject matter called **Titles**, organic laws, called **Chapters** and **Subchapters**, and finally, individual **Sections** representing the individual sections of organic law. Occasionally, **Subtitles** are used to organize chapters of organic law, **Units** to organize subchapters, and **Parts** and **Subparts** to organize the additional divisions within the organic law. One important change that the user will notice, and hopefully appreciate, is that the District’s Charter, the Home Rule Act, is codified in its entirety in one location so that the

1. See 1 U.S.C. § 204(b) (1994); *Sheetz v. District of Columbia*, 629 A.2d 515, 519 (D.C. 1993).

framework of the current District government can be readily found. We hope that the organization of the 2001 Edition of the District of Columbia Official Code will serve as a foundation for further refinement by future law revision commissions or their equivalent.

The 2001 Edition has been prepared under the supervision of Benjamin. F. Bryant, Jr., Codification Counsel, Office of the General Counsel, Council of the District of Columbia.

_____/s/_____

Linda W. Cropp

Chairman

Council of the District of Columbia

_____/s/_____

Charlotte Brookins-Hudson

General Counsel

Council of the District of Columbia

USER'S GUIDE

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Official Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Official Code intended to increase the usefulness of the Code to the user.

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*Title has been enacted as law.

Title

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* Title has been enacted as law.

CITE THIS BOOK

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Subchapter I. General Provisions.

§ 2-601. Definitions.

For the purpose of this subchapter:

(1) The term “act” shall have the same meaning as is ascribed to it in § 1-201.03(7).

(2) The term “agency” means any officer, employee, office, department, division, board, commission, or other agency of the government of the District of Columbia including both those which are independent of and those which are subordinate to the Mayor and Council but not including the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

(3) The term “Board of Commissioners” means the Board of Commissioners of the District of Columbia established by Act of June 11, 1878 (20 Stat. 102).

(4) The term “Commissioner” means the Commissioner of the District of Columbia established by subsection (a) of § 301 of Reorganization Plan No. 3 of 1967 (81 Stat. 949).

(5) The term “Council” means the Council of the District of Columbia created by § 1-204.01(a) unless the phrase “District of Columbia Council” is used in which event the term shall mean the District of Columbia Council created by subsection (a) of § 201 of Reorganization Plan No. 3 of 1967 (81 Stat. 948).

(6) The term “Council year” means the legislative period of the Council beginning on January 2nd of each year and ending on January 1st of the following year.

(7) Repealed.

(8) The term “District of Columbia Register” means the District of Columbia Register mandated by § 2-504.

(9) The term “Mayor” means the Mayor of the District of Columbia created by § 1-204.21(a) or his or her designated agent.

(10) The term “rule” means the whole or any part of any Board of Commissioners’, Commissioner’s, District of Columbia Council’s, Mayor’s, or agency’s statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or designed to describe organization, procedure, or practice requirements.

(11) The term “regulation” shall have the same meaning as the term “rule.”

(12) The term “resolution” means a resolution of the Council unless the term “Congressional resolution” is used in which case it shall mean a resolution of the Congress of the United States or either House thereof.

(Oct. 8, 1975, D.C. Law 1-19, title II, § 202, 22 DCR 2056; Apr. 7, 2006, D.C. Law 16-91, § 135, 52 DCR 10637.)

Prior Codifications. — 1981 Ed., § 1-1601. 1973 Ed., § 1-1601.

Effect of amendments. — D.C. Law 16-91 repealed par. (7) which had read as follows: “(7) The term ‘District of Columbia Code’ means the Code of the District of Columbia as provided for in the Act of July 30, 1947 (61 Stat. 638) and any continuations, supplements, or revisions thereof authorized by Act, Congressional resolution, or act.”

Legislative history of Law 1-19. — Law 1-19 was introduced in Council and assigned Bill No. 1-1, which was referred to the Committee of the Whole, the Committee on the Judiciary and the Committee on Criminal Law. The Bill was adopted on first and second readings on June 3, 1975 and June 20, 1975, respectively. Signed by the Mayor on July 10, 1975, it was assigned Act No. 1-30 and transmitted to both Houses of Congress for its review.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

References in text. — “Act of June 11,

1878,” referred to in paragraph (3), is also known as the Organic Act of 1878, and is set forth in its entirety in Volume 1.

§ 2-602. Publication prerequisite for effectiveness of Council acts and resolutions.

No act or resolution shall be effective until the act or resolution has been published in the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations, except that any emergency act or resolution approved pursuant to § 1-204.12(a), any resolution to approve or disapprove proposed actions pursuant to § 1-204.12(a)(2) or § 1-204.90(a)(1), or any resolution that pertains to the internal operation or organization of the Council shall be effective without prior publication, but shall be published as soon as practicable.

(Oct. 8, 1975, D.C. Law 1-19, title II, § 204, 22 DCR 2058; Oct. 30, 1975, D.C. Law 1-27, § 4, 22 DCR 2472; Apr. 7, 1977, D.C. Law 1-115, § 2, 23 DCR 8744; Mar. 6, 1979, D.C. Law 2-153, § 6(c), 25 DCR 6960; Mar. 15, 1990, D.C. Law 8-89, § 2, 37 DCR 644; Feb. 5, 1994, D.C. Law 10-68, § 8, 40 DCR 6311; Oct. 19, 2002, D.C. Law 14-213, § 5, 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 27, 51 DCR 881.)

Cross references. — Motor vehicles and traffic, moving infractions, exceptions, criminal offenses, amendment of municipal code by publication, see § 50-2302.02.

Publication and codification of acts of D.C. Council, requirements, see § 1-204.04.

Prior Codifications. — 1981 Ed., § 1-1602. 1973 Ed., § 1-1602.

Effect of amendments. — D.C. Law 14-213 substituted “§§ 1-204.12(a)(2), and 1-204.90(a)(1)” for “§ 1-204.12(a)(2)”.

D.C. Law 15-105 validated a previously made technical correction.

Legislative history of Law 1-19. — For legislative history of D.C. Law 1-19, see Historical and Statutory Notes following § 2-601.

Legislative history of Law 1-27. — Law 1-27 was introduced in Council and assigned Bill No. 1-90, which was referred to the Committee on Advisory Neighborhood Councils. The Bill was adopted on first and second readings on June 17, 1975 and July 1, 1975, respectively. Signed by the Mayor on August 4, 1975, it was assigned Act No. 1-39 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-153. — For legislative history of D.C. Law 2-153, see Historical and Statutory Notes following § 2-611.

Legislative history of Law 8-89. — Law 8-89 was introduced in Council and assigned Bill No. 8-265, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1989, and December 19, 1989, respectively. Signed by

the Mayor on January 8, 1990, it was assigned Act No. 8-140 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-68. — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Legislative history of Law 15-105. — Law 15-105, the “Technical Amendments Act of 2003,” was introduced in Council and assigned Bill No. 15-437, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively. Signed by the Mayor on January 6, 2004, it was assigned Act No. 15-291 and transmitted to both Houses of Congress for its review. D.C. Law 15-105 became effective on March 13, 2004.

Editor’s notes. — Publication requirement exemption: Section 5 of D.C. Law 16-300 provided: “Notwithstanding section 8 of this act and sections 204 and 308(b) of the District of Columbia Administrative Procedure Act, effective March 6, 1979 (D.C. Law 2-153; D.C. Offi-

cial Code §§ 2-602 and 2-558(b)), the text, maps, and graphics of the District elements of the Comprehensive Plan for the National Cap-

ital, as amended by this act, need not be published in the District of Columbia Register to become effective."

§ 2-603. Statutes-at-Large.

(a) Within 45 days of the end of each Council year, the Mayor shall compile and publish the District of Columbia Statutes-at-Large which shall include in separate chronological order:

(1) Council acts, including emergency acts adopted after December 31, 1986, which become law during that Council year; and

(2) Council resolutions adopted during that Council year, except ceremonial resolutions adopted after December 31, 1986.

(b) The 1st publication of the District of Columbia Statutes-at-Large shall also contain in a separate part each regulation and resolution of the District of Columbia Council in chronological order.

(c) The Mayor shall make copies of the District of Columbia Statutes-at-Large available to the public at a reasonable cost calculated to cover the costs of its compilation, publication, and distribution.

(Oct. 8, 1975, D.C. Law 1-19, title II, § 205, 22 DCR 2062; Mar. 6, 1979, D.C. Law 2-153, § 6(c), 25 DCR 6960; Feb. 18, 1988, D.C. Law 7-78, § 2, 34 DCR 7956.)

Prior Codifications. — 1981 Ed., § 1-1603. 1973 Ed., § 1-1603.

Legislative history of Law 1-19. — For legislative history of D.C. Law 1-19, see Historical and Statutory Notes following § 2-601.

Legislative history of Law 2-153. — For legislative history of D.C. Law 2-153, see Historical and Statutory Notes following § 2-611.

Legislative history of Law 7-78. — Law

7-78 was introduced in Council and assigned Bill No. 7-179, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 27, 1987 and November 10, 1987, respectively. Signed by the Mayor on November 24, 1987, it was assigned Act No. 7-113 and transmitted to both Houses of Congress for its review.

§ 2-604. Enrollment of Council acts and resolutions; filing with Archives.

After enactment by the Council, but before any presentation to the Mayor, each act and resolution of the Council shall be set forth on parchment or other such suitable paper.

(Oct. 8, 1975, D.C. Law 1-19, title II, § 206, 22 DCR 2062; Mar. 8, 1991, D.C. Law 8-235, § 3, 38 DCR 302.)

Cross references. — Public records management, see § 2-1701 et seq.

Prior Codifications. — 1981 Ed., § 1-1604. 1973 Ed., § 1-1604.

Legislative history of Law 1-19. — For legislative history of D.C. Law 1-19, see Historical and Statutory Notes following § 2-601.

Legislative history of Law 8-235. — Law 8-235 was introduced in Council and assigned

Bill No. 8-559, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-318 and transmitted to both Houses of Congress for its review.

§ 2-605. Judicial notice.

All courts within the District of Columbia shall take judicial notice of the acts and resolutions published in the District of Columbia Statutes-at-Large. (Oct. 8, 1975, D.C. Law 1-19, title II, § 207, 22 DCR 2063; Mar. 6, 1979, D.C. Law 2-153, § 6(c), 25 DCR 6960.)

Prior Codifications. — 1981 Ed., § 1-1605. 1973 Ed., § 1-1605.

Legislative history of Law 1-19. — For legislative history of D.C. Law 1-19, see Historical and Statutory Notes following § 2-601.

Legislative history of Law 2-153. — For legislative history of D.C. Law 2-153, see Historical and Statutory Notes following § 2-611.

CASE NOTES

In general.

When District of Columbia statutes-at-large are inconsistent with District of Columbia Code, statutes-at-large must prevail. D.C. Code

1981, § 1-1605. Burt v. District of Columbia, 525 A.2d 616, 1987 D.C. App. LEXIS 351 (1987).

Subchapter II. District of Columbia Office of Documents.

§ 2-611. Established; appointment and qualifications of Administrator; duties; compensation of Administrator; authorization of positions and fundings; transfer of property, records, and unexpended balances of appropriated funds.

(a) Part IV D of Organization Order No. 2, Commissioner's Order No. 67-23, December 13, 1967, creating the Secretariat within the executive office of the Mayor, is amended:

(1) By striking subsection 1. k.; and

(2) By transferring, as provided in this subchapter, to the District of Columbia Office of Documents all of the powers, duties, and functions assigned to the Secretariat under any provision of law relating to the preparation, certification, and publication of the District of Columbia Register and all District of Columbia rules, regulations, codes, ordinances, and any amendments thereto.

(b) There is hereby established within the executive office of the Mayor (created by Organization Order No. 2, dated December 23, 1967) a District of Columbia Office of Documents which shall be under the supervision and control of an Administrator appointed by the Mayor without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

(c) The District of Columbia Office of Documents shall provide for the prompt preparation, editing, printing, and public distribution of the District of Columbia Statutes-at-Large, the District of Columbia Register, and the District of Columbia Municipal Regulations in accordance with this subchapter.

(d) The Administrator of the District of Columbia Office of Documents (hereinafter also referred to as "Administrator") shall be a member of the

District of Columbia Bar. The Administrator shall appoint such employees within the District of Columbia Office of Documents as may be necessary for the prompt and efficient performance of the functions of the Office and for which sufficient appropriation is authorized and provided.

(e) The Administrator shall be paid at a per annum gross rate not to exceed the highest step level of GS-15 of the General Schedule.

(f) Repealed.

(g) All property, records, and unexpended balances of appropriated funds in the Office of the Secretariat which are currently allotted for legal publications, codification, and the District of Columbia Register functions shall be transferred to the District of Columbia Office of Documents. All rules, regulations, documents, and other materials assembled or developed by the Mayor's municipal code compilation project shall be transferred to the Office of Documents.

(Mar. 6, 1979, D.C. Law 2-153, § 2, 25 DCR 6960; Mar. 3, 2010, D.C. Law 18-111, § 1021, 57 DCR 181.)

Cross references. — Administration, administrative procedure, “administrator” defined, see § 2-551.

Office of documents, responsibility for publication of District of Columbia Municipal Regulations, see § 2-552.

Prior Codifications. — 1981 Ed., § 1-1611. 1973 Ed., § 1-1611.

Effect of amendments. — D.C. Law 18-111 repealed subsec. (f), which had read as follows: “(f) No fewer than 7 funded and authorized positions and the attendant funding totaling at least \$150,000 for salaries and personnel benefits for such positions shall be transferred by the Mayor to the District of Columbia Office of Documents.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 1021 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 1021 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 2-153. — Law 2-153 was introduced in Council and assigned Bill No. 2-96, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-319 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Short title. — Short title: Section 1020 of D.C. Law 18-111 provided that subtitle C of title I of the act may be cited as the “Documents Amendment Act of 2009”.

§ 2-612. Duties of Administrator.

The Administrator of the District of Columbia Office of Documents shall:

(1) Supervise, manage, and direct the preparation, editing, printing and public distribution of all legal publications of the District of Columbia government including the District of Columbia Register and the District of Columbia Municipal Regulations in accordance with this subchapter;

(2) Promulgate appropriate rules of procedure to implement the provisions of this subchapter;

(3) With the assistance of the Office of the Corporation Counsel, the officer designated by the Chairman of the Council, or legal counsels to agencies and other governmental entities, certify the promulgation, adoption, or enactment of documents to be published in accordance with this subchapter;

(4) Coordinate with the officer designated by the Chairman of the Council

the drafting and preparation of legislation to be published in the District of Columbia Register and the District of Columbia Municipal Regulations;

(5) Establish editorial standards for the removal of unnecessary sex-based terminology in documents and for the numbering, grammar, and style of all documents to be published pursuant to this subchapter;

(5A) Establish editorial standards for the use of respectful language in documents as required under § 2-632;

(6) Except with respect to acts or resolutions of the Council, reject for publication proposed rules, regulations, orders, administrative issuances, or ordinances which fail to comply substantially with the publication requirements authorized by this subchapter;

(7) In accordance with applicable law, procure contracts for the preparation and publication of documents pursuant to this subchapter; and

(8) Instruct promulgators of documents to be published under this subchapter concerning the requirements established by the Administrator under this subchapter and the means to comply with those requirements.

(Mar. 6, 1979, D.C. Law 2-153, § 3, 25 DCR 6960; Sept. 29, 2006, D.C. Law 16-169, § 6, 53 DCR 6223; Mar. 25, 2009, D.C. Law 17-353, § 123, 56 DCR 1117.)

Cross references. — Editorial standards, exemptions, see § 6-1408.

Public records management, see § 2-1701 et seq.

Prior Codifications. — 1981 Ed., § 1-1612. 1973 Ed., § 1-1612.

Effect of amendments. — D.C. Law 16-169 adds par. (5A).

D.C. Law 17-353 validated a previously made

technical correction in the punctuation in par. (5A).

Legislative history of Law 2-153. — For legislative history of D.C. Law 2-153, see Historical and Statutory Notes following § 2-611.

Legislative history of Law 16-169. — For Law 16-169, see notes following § 2-552.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Subchapter III. Government Notices in Newspapers.

§ 2-621. Requirement.

Notwithstanding any other provisions of law, any other requirement that the District of Columbia publish notices in 2 daily newspapers shall be satisfied by publication in at least 2 general circulation newspapers, published in the District of Columbia, once every 2 weeks or more frequently.

(Mar. 16, 1982, D.C. Law 4-81, § 6, 29 DCR 156.)

Prior Codifications. — 1981 Ed., § 1-1621.

Legislative history of Law 4-81. — Law 4-81 was introduced in Council and assigned Bill No. 4-323, which was referred to the Committee on the Judiciary. The Bill was adopted

on first and second readings on November 10, 1981 and November 24, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-135 and transmitted to both Houses of Congress for its review.

CASE NOTES

In general.

“Once every two weeks,” as used in statute governing publication requirement of notices of

tax sales refers to frequency with which newspapers are published, and does not require that notice be published twice in each of two general

circulation newspapers. D.C. Code 1981, § 47-1301. *Jones v. District of Columbia*, 585 A.2d 1320, 1990 D.C. App. LEXIS 331 (1990).

Property owners failed to overcome presumption of constitutionality that attached to statute requiring that notice of tax sale be published only once in each of two newspapers of general circulation. D.C. Code 1981, § 47-1301. *Jones v. District of Columbia*, 585 A.2d 1320, 1990 D.C. App. LEXIS 331 (1990).

ute requiring that notice of tax sale be published only once in each of two newspapers of general circulation. D.C. Code 1981, § 47-1301. *Jones v. District of Columbia*, 585 A.2d 1320, 1990 D.C. App. LEXIS 331 (1990).

Subchapter IV. Respectful Language Modernization.

§ 2-631. Definitions.

For purposes of this subchapter, the term:

(1) “Disability” means, with respect to an individual:

(A) A physical or mental impairment that substantially limits one or more of the major life activities of that individual;

(B) A record of such an impairment; or

(C) Being regarded as having such an impairment.

(2) “Internet publication” means any information posted to an official web site of a public body, except for archival documents.

(3) “Policies” means official instructions and guiding principles issued by a public body for the implementation of its programs.

(4) “Public body” shall have the same meaning as set forth in § 2-502(18A).

(5) “Publications” means any written material issued by a public body, either for internal or external use, and does not include internet publications, policies, rules, regulations, and signage.

(6) “Regulation” shall have the same meaning as set forth in § 2-502(17).

(7) “Rule” shall have the same meaning as set forth in § 2-502(6).

(8) “Signage” means any poster on paper larger than 8 ½ inches by 11 inches issued by a public body and any signs regardless of size made of any material other than paper and posted or issued by a public body.

(Sept. 29, 2006, D.C. Law 16-169, § 2, 53 DCR 6223.)

Legislative history of Law 16-169. — Law 16-169, the “People First Respectful Language Modernization Act of 2006”, was introduced in Council and assigned Bill No. 16-665 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings

on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 18, 2006, it was assigned Act No. 16-438 and transmitted to both Houses of Congress for its review. D.C. Law 16-169 became effective on September 29, 2006.

§ 2-632. Respectful language.

(a) On or after September 29, 2006, all new and revised sections of the District of Columbia Official Code, all new, revised, or republished District regulations, rules, policies, or publications and all internet publications shall, when referring to persons with disabilities:

(1) Avoid any use of following terms, except as required by any law or regulation: “afflicted,” “cripple,” “crippled,” “defective,” “feeble-minded,” “handicapped,” “handicap,” “idiot,” “lunatic,” “imbecile,” “insane,” “invalid,” “maimed,” “moron,” “suffering,” “wheelchair user,” or “wheelchair bound”;

(2) Use “person,” “people,” “individual,” “individuals,” “adult,” “adults,”

“child,” “children,” or “youth” in sentence construction so that the language refers to individuals:

(A) With disabilities or with conditions that result in disability;

(B) Who have disabilities or who have conditions that result in disability; or

(C) Who use or who need assistive technology.

(b) On or after 6 months following September 29, 2006, all policies and signage shall comply with subsection (a) of this section.

(c) Upon the earlier of reprinting or September 30, 2007, all publications shall comply with subsection (a) of this section.

(d) No statute, regulation, or rule shall be invalid because it does not comply with this section.

(Sept. 29, 2006, D.C. Law 16-169, § 3, 53 DCR 6223.)

Legislative history of Law 16-169. — For Law 16-169, see notes following § 2-631.

§ 2-633. Report.

Within 6 months of September 29, 2006, the District of Columbia Developmental Disabilities State Planning Council, established by Mayor’s Order 98-7, issued on January 21, 1998 (45 DCR 882), shall submit to the Mayor and the Council a report on the use of the term ‘mental retardation,’ which shall at a minimum include:

(1) A review of current national and local practices and trends with regard to the use of the term mental retardation;

(2) An assessment of the sentiment of District residents with developmental disabilities with regard to the use of term mental retardation; and

(3) Recommendations for the continued use or replacement of the term mental retardation in all laws, regulations, rules, and public records.

(Sept. 29, 2006, D.C. Law 16-169, § 4, 53 DCR 6223.)

Legislative history of Law 16-169. — For Law 16-169, see notes following § 2-631.

CHAPTER 7. OFFICIAL CORRESPONDENCE.

Sec.

2-701. Definitions.

2-702. Permitted categories of official mail.

2-703. Marking requirements for envelopes.

2-704. Use of expedited services; use of officially marked envelopes; payment for nonconforming enclosures prohibited; inspection of agency mail; promulgation of rules and regulations.

Sec.

2-705. Use of official mail by officials-elect.

2-706. Prohibited uses of official mail by elected officials.

2-707. Authorized uses of official mail by elected officials.

2-708. Penalties.

2-709. Unintentional violations.

2-710. Deposit of fines.

§ 2-701. Definitions.

For the purpose of this chapter, the term:

(1) "Agency" includes all departments, entities, agencies, offices, or other subdivisions of the executive and legislative branches of the government of the District of Columbia as well as all independent boards, commissions, agencies, or other independent entities.

(2) "Director" means the director or head of the Department of Administrative Services, or its successor agency, or his or her designated agent.

(3) "Government employee" includes members of any board or commission appointed by the Mayor or Council, officers or employees paid by appropriated or grant funds authorized for expenditure by the District of Columbia government, or an officer or employee of any agency when acting in an official capacity.

(4) "Mass mailing" means the transmission through the mail during any 30-day period of more than 100 newsletters or similar types of materials which contain substantially identical contents.

(5) "Elected official" includes the Mayor, the Chairman of the Council, members of the Council, and Chairman and members of the Board of Education.

(6) "Official mail" means the mail which is either prepaid or postpaid by any branch, division, or other agency of the government of the District of Columbia.

(Apr. 7, 1977, D.C. Law 1-118, § 2, 23 DCR 8746; Mar. 16, 1989, D.C. Law 7-188, § 2(a), 35 DCR 8651.)

Section references. — This section is referred to in § 2-705.

Prior Codifications. — 1981 Ed., § 1-1701.
1973 Ed., § 1-1701.

Legislative history of Law 1-118. — Law 1-118 was introduced in Council and assigned Bill No. 1-341, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 22, 1976 and December 7, 1976, respectively. Enacted without signature by the Mayor, it was assigned Act No. 1-211 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-188. — Law 7-188 was introduced in Council and assigned Bill No. 7-330, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 25, 1988 and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-250 and transmitted to both Houses of Congress for its review.

Transfer of Functions. — The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983,

effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

CASE NOTES

In general.

Police and Firefighter's Retirement and Disability Act is the exclusive remedy for Metropolitan Police Department (MPD) officers who

are injured in the performance of duty. *Smallwood v. D.C. Metro. Police Dep't*, 956 A.2d 705, 2008 D.C. App. LEXIS 396 (2008).

§ 2-702. Permitted categories of official mail.

Except as otherwise provided in this chapter, a government employee may not mail, as official mail, any matter, article, material, or document for any reasons other than the following:

- (1) A request for the matter, article, material, or document has been previously received by the agency;
- (2) The mailing of the document is required by law;
- (3) The material or matter requests information pertinent to the conduct of the official business of the agency;
- (4) The material contains information relating to the activities of the agency or to the availability of agency publications or other documents;
- (5) The enclosures are forms, blanks, cards, or other documents necessary or beneficial to the administration of the agency;
- (6) The materials are copies of federal, state or local laws, rules, regulations, orders, instructions, or interpretations thereto; or
- (7) The materials are being mailed to federal, state, or other public authorities.

(Apr. 7, 1977, D.C. Law 1-118, § 3, 23 DCR 8746.)

Section references. — This section is referred to in § 2-704.

Prior Codifications. — 1981 Ed., § 1-1702. 1973 Ed., § 1-1702.

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

§ 2-703. Marking requirements for envelopes.

Envelopes or other materials which are used to enclose official mail shall bear upon its facing, in addition to the name and address of the agency mailing the official mail, the words "official business."

(Apr. 7, 1977, D.C. Law 1-118, § 4, 23 DCR 8746.)

Section references. — This section is referred to in § 2-704.

Prior Codifications. — 1981 Ed., § 1-1703. 1973 Ed., § 1-1703.

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

§ 2-704. Use of expedited services; use of officially marked envelopes; payment for nonconforming enclosures prohibited; inspection of agency mail; promulgation of rules and regulations.

(a) Funds administered by District agencies, whether appropriated funds, or grant funds, may not be used to pay for the use of telegrams, night letters, mailgrams, or similar types of mail, except in emergency circumstances and as provided by regulations promulgated pursuant to subsection (f) of this section.

(b) Envelopes or other materials described by § 2-703 may not be used to enclose materials, documents, or other articles except those enumerated in §§ 2-702 and 2-707, or other materials not prohibited by § 2-706.

(c) Funds administered by District agencies may not be used to pay the postage of materials whose enclosures do not conform to the requirements set forth in § 2-703 unless the head of the agency mailing the material certifies to the Director of the Department of General Services that there are circumstances, which shall be made known to the Director prior to the mailing, which preclude the observance of the requirements.

(d) The Director shall maintain the certifications required in subsection (c) of this section for a period of 3 years.

(e) The Director may inspect and return to the agency any mail which, in his or her judgment, fails to meet the requirement of the act or the regulations promulgated pursuant to this chapter. Under regulations promulgated pursuant to subsection (f) of this section, the Director shall provide for the designation of a person within each agency, department, commission, or other office to assist him or her to certify compliance with the provisions of this chapter.

(f) For the executive branch, independent agencies, boards and commissions of the District of Columbia, the Director is hereby authorized to promulgate rules and regulations, in the manner prescribed by subchapter I of Chapter 5 of this title to carry out the provisions and intent of this chapter within 60 days after July 1, 1977.

(g) For the Council of the District of Columbia, the rules to implement this law shall be those adopted in rules of the Council.

(Apr. 7, 1977, D.C. Law 1-118, § 5, 23 DCR 8746; Mar. 16, 1989, D.C. Law 7-188, § 2(b), 35 DCR 8651.)

Prior Codifications. — 1981 Ed., § 1-1704.
1973 Ed., § 1-1704.

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

Legislative history of Law 7-188. — For legislative history of D.C. Law 7-188, see Historical and Statutory Notes following § 2-701.

Transfer of Functions. — The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

§ 2-705. Use of official mail by officials-elect.

In addition to government employees and elected officials as defined in § 2-701, the following officials may mail materials as official mail:

- (1) The Mayor-elect;
- (2) The Chairman-elect and members-elect of the Council.

(Apr. 7, 1977, D.C. Law 1-118, § 6, 23 DCR 8746.)

Prior Codifications. — 1981 Ed., § 1-1705. legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.
1973 Ed., § 1-1705.

Legislative history of Law 1-118. — For

§ 2-706. Prohibited uses of official mail by elected officials.

(a) An elected official may not mail, as official mail, any mass mailing within the 90-day period that immediately precedes a primary, special, or general election in which such official is a candidate for office.

(b) An elected official may mail, as official mail, news releases or newsletters; provided, that such materials do not contain any of the following:

- (1) Autobiographical articles;
- (2) Political cartoons;
- (3) References to past or future campaigns;
- (4) Announcements of filings for reelection;
- (5) Announcements of campaign schedules;
- (6) Announcements of political or partisan meetings;
- (7) Reports on family life; or

(8) Pictures of the official members with any partisan label such as "Democrat," "Republican," "Statehood Party," or any other label which purports to advertise the member rather than to illustrate the accompanying text.

(c) An elected official may not use official mail to solicit directly or indirectly funds for any purpose.

(d) An elected official may not use official mail for transmission of matter which is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the member.

(e) An elected official may not mail, as official mail, cards or other materials which express holiday greetings from the member or his or her family.

(f) An elected official may not mail, as official mail, information which would exceed the provisions of § 2-704 and § 2-707 of the act of fund raising appeals related to citizen-service activities established pursuant to § 1-1163.38.

(Apr. 7, 1977, D.C. Law 1-118, § 7, 23 DCR 8746; Mar. 16, 1982, D.C. Law 4-88, § 4, 29 DCR 458; Apr. 27, 2012, D.C. Law 19-124, § 501(h), 59 DCR 1862.)

Section references. — This section is referred to in §§ 2-704 and 2-707.

Prior Codifications. — 1981 Ed., § 1-1706.
1973 Ed., § 1-1706.

Effect of amendments. — D.C. Law 19-124, in subsec. (f), substituted "§ 1-1163.38" for "§ 2-704".

Emergency legislation. — For temporary (90 day) amendment of section, see § 401(h) of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Amendment Act of 2012 (D.C. Act 19-298, January 29, 2012, 59 DCR 683).

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

Legislative history of Law 4-88. — Law 4-88 was introduced in Council and assigned Bill No. 4-271, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on

November 24, 1981 and December 8, 1981, respectively. Signed by the Mayor on January 20, 1982, it was assigned Act No. 4-142 and transmitted to both Houses of Congress for its review.

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 2-592.

§ 2-707. Authorized uses of official mail by elected officials.

The provisions of § 2-706 do not prohibit an elected official or his or her staff from mailing, as official mail, any of the following:

- (1) The whole or part of any record, speech, debate, or report of the Council or any committee thereof;
- (2) The tabulation of an official's vote or explanation thereof;
- (3) Matter which expresses condolences to a person who has suffered a loss or congratulations to a person who has achieved some personal or public distinction; provided, that mass mailings of a congratulatory nature which are substantially the same except for individualized addresses are not authorized;
- (4) Information concerning the official's schedule of meeting constituents;
- (5) Information concerning the meeting schedule and agenda for committees and subcommittees upon which the official serves;
- (6) Information concerning financial disclosure information, whether or not required by law;
- (7) Matter which consists of federal, state, or local laws, regulations or publications paid for by public funds;
- (8) Questionnaires which relate to matters respecting public policy or administration; and
- (9) Matter which contains pictures of the member or biographical or autobiographical data whenever such matter is mailed in response to a specific request therefor.

(Apr. 7, 1977, D.C. Law 1-118, § 8, 23 DCR 8746.)

Section references. — This section is referred to in §§ 2-704 and 2-706.

Prior Codifications. — 1981 Ed., § 1-1707.
1973 Ed., § 1-1707.

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

§ 2-708. Penalties.

(a) Except as otherwise provided in this chapter, a person who, at the time of the mailing, is not a government employee and who mails or attempts to mail materials, documents, or other items as official mail shall be fined an amount not exceeding \$100 or confined for a term not exceeding 1 year.

(b) Any person who willfully violates any provision of this chapter shall be subject to a fine not exceeding \$1,000 or confined for a term not exceeding 1 year, plus double the amount of money incidental to the unlawful mailing.

(Apr. 7, 1977, D.C. Law 1-118, § 9, 23 DCR 8746.)

Section references. — This section is referred to in § 2-710.

Prior Codifications. — 1981 Ed., § 1-1708. 1973 Ed., § 1-1708.

Legislative history of Law 1-118. — For legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

§ 2-709. Unintentional violations.

(a) Any person who by reason of ignorance, forgetfulness, or misunderstanding improperly or unlawfully uses official mail shall be liable to the District for double the cost of the postage.

(b) Any person who willfully violates provisions of this chapter shall be subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, plus double the amount of money incidental to the unlawful mailing.

(Apr. 7, 1977, D.C. Law 1-118, § 10, 23 DCR 8746.)

Prior Codifications. — 1981 Ed., § 1-1709. 1973 Ed., § 1-1709.

Legislative history of Law 1-118. — For

legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

§ 2-710. Deposit of fines.

Money inuring to the District as a result of the fines imposed under § 2-708 shall be deposited in the Treasury of the United States to the credit of the District of Columbia or in any other depository designated by the Council.

(Apr. 7, 1977, D.C. Law 1-118, § 11, 23 DCR 8746.)

Prior Codifications. — 1981 Ed., § 1-1710. 1973 Ed., § 1-1710.

Legislative history of Law 1-118. — For

legislative history of D.C. Law 1-118, see Historical and Statutory Notes following § 2-701.

CHAPTER 8. PRESIDENTIAL INAUGURAL CEREMONIES.

Subchapter I. After August 12, 1998

Subchapter II. After August 6, 1956

- Sec.
 2-801. Definitions.
 2-802. Regulations, licenses, and registration tags.
 2-803. Use of reservations, grounds, and public spaces.
 2-804. Installation and removal of electrical facilities.
 2-805. Extension of wires along parade routes.
 2-806. Duration of regulations and licenses and publication of regulations.
 2-807. Application to other property.
 2-808. Enforcement.
 2-809. Penalty.
 2-810. Authorization of appropriations.

- Sec.
 2-821. Definitions.
 2-822. Regulations by Council authorized; special registration tags.
 2-823. Appropriations; authorized; use.
 2-824. Permits for use of federal grounds and reservations.
 2-825. Installation of electrical facilities.
 2-826. Installation of communication facilities.
 2-827. Effective period of regulations and licenses; publication of regulations; penalties.
 2-828. Property under jurisdiction of Congress.
 2-829. Reference to "Mayor".

Subchapter I. After August 12, 1998.

§ 2-801. Definitions.

For purposes of this chapter:

(1) "Inaugural Committee" means the committee appointed by the President-elect to be in charge of the Presidential inaugural ceremony and functions and activities connected with the ceremony; and

(2) "inaugural period" means the period that includes the day on which the Presidential inaugural ceremony is held, the 5 calendar days immediately preceding that day, and the 4 calendar days immediately following that day.

(Aug. 12, 1998, 112 Stat. 1263, Pub. L. 105-225, § 501.)

Prior Codifications. — 1981 Ed., § 1-1051.

§ 2-802. Regulations, licenses, and registration tags.

(a) *Regulations and licenses.* — For each inaugural period, the Council of the District of Columbia shall:

(1) Prescribe reasonable regulations necessary to preserve public order and protect life, health, and property;

(2) Prescribe special regulations related to the standing, movement, and operation of vehicles; and

(3) Grant special licenses to peddlers and vendors to sell merchandise in places the Council considers proper, subject to conditions and fees for the licenses the Council considers proper.

(b) *Registration tags.* — The Mayor of the District of Columbia may issue, for any motor vehicle made available for the use of the Inaugural Committee, special registration tags, valid for not more than 90 days, designed to celebrate the inauguration of the President and Vice President.

(Aug. 12, 1998, 112 Stat. 1264, Pub. L. 105-225, § 502.)

Prior Codifications. — 1981 Ed., § 1-1052.

§ 2-803. Use of reservations, grounds, and public spaces.

(a) *Permit for use.* — With the approval of the officer having jurisdiction over any of the Federal reservations or grounds in the District of Columbia, the Secretary of the Interior may grant to the Inaugural Committee a permit to use the reservations or grounds during the inaugural period, including a reasonable time before and after the inaugural period. The Mayor of the District of Columbia may grant a similar permit to use public space under the Mayor's jurisdiction. Each permit granted under this subsection is subject to conditions the grantor of the permit prescribes.

(b) *Reviewing stands and commercial stands and structures.* — A reviewing stand or a stand or structure for the sale of merchandise, food, or drink may be built on public grounds in the District of Columbia only if approved by the Inaugural Committee and by the Secretary or the Mayor, as appropriate.

(c) *Restoration after inaugural period.* — After the inaugural period, the reservation, ground, or public space occupied by a stand or structure shall be restored promptly to its prior condition.

(d) *Indemnification.* — The Inaugural Committee shall indemnify and save harmless the District of Columbia and the appropriate department, agency, or instrumentality of the United States Government against any loss or damage to, and against any liability arising from the use of, the reservation, ground, or public space, by the Inaugural Committee or a licensee of the Inaugural Committee.

(Aug. 12, 1998, 112 Stat. 1264, Pub. L. 105-225, § 503.)

Prior Codifications. — 1981 Ed., § 1-1053.

§ 2-804. Installation and removal of electrical facilities.

(a) *Installation.* — The Mayor of the District of Columbia may allow the Inaugural Committee to install suitable overhead conductors and electrical facilities, with adequate supports. The official in charge of a park or reservation in the District of Columbia in which it is necessary to place wires shall supervise the placing and removal of those wires.

(b) *Removal.* — The conductors and supports shall be removed not later than 5 days after the end of the inaugural period.

(c) *Indemnification.* — The United States Government and the District of Columbia may not incur any expense or damage from the installation, operation, or removal of a temporary overhead conductor or electrical facility. The Inaugural Committee shall indemnify and hold harmless the District of Columbia and the appropriate department, agency, or instrumentality of the Government against any loss or damage, and against any liability arising, from any act of the Inaugural Committee or any agent, licensee, servant, or employee of the Inaugural Committee in connection with the installation, operation, or removal of a temporary overhead conductor or electrical facility.

(Aug. 12, 1998, 112 Stat. 1264, Pub. L. 105-225, § 504.)

Prior Codifications. — 1981 Ed., § 1-1054.

§ 2-805. Extension of wires along parade routes.

The Mayor of the District of Columbia, the Secretary of the Interior, and the Inaugural Committee may allow communications companies to extend overhead wires to places along a parade route that are considered convenient for use in connection with the parade and other inaugural purposes. The wires shall be removed not later than 10 days after the inaugural period ends.

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 505.)

Prior Codifications. — 1981 Ed., § 1-1055.

§ 2-806. Duration of regulations and licenses and publication of regulations.

Regulations prescribed and licenses authorized under this chapter are effective only during the inaugural period. The regulations shall be published in at least one daily newspaper published in the District of Columbia. A penalty prescribed for violating such a regulation may not be enforced until 5 days after publication

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 506.)

Prior Codifications. — 1981 Ed., § 1-1056.

§ 2-807. Application to other property.

This chapter does not apply to the United States Capitol Buildings or Grounds or other property under the jurisdiction of Congress or a committee, commission, or officer of Congress. A service or facility authorized by or under this chapter is available for the property on request or approval of the joint committee of the Senate and House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives to arrange for the inauguration of the President-elect and the Vice President-elect.

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 507.)

Prior Codifications. — 1981 Ed., § 1-1057.

§ 2-808. Enforcement.

The Mayor of the District of Columbia, or other official having jurisdiction in the premises, shall enforce this chapter, take necessary precautions to protect the public, and ensure that the pavement of any street, sidewalk, avenue, or alley disturbed or damaged is restored to its prior condition.

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 508.)

Prior Codifications. — 1981 Ed., § 1-1058.

§ 2-809. Penalty.

A person violating a regulation prescribed under this chapter shall be fined under Title 18 [of the U.S. Code] or imprisoned for not more than 30 days. A separate violation occurs under this section for each day the violation continues.

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 509.)

Prior Codifications. — 1981 Ed., § 1-1059.

References in text. — “Title 18,” referred to in this section, is Title 18 of the U.S. Code.

§ 2-810. Authorization of appropriations.

(a) *Authorization.* — Necessary amounts are authorized to be appropriated—

(1) To enable the Mayor of the District of Columbia to provide additional municipal services in the District of Columbia during the inaugural period, including:

(A) Employment of personal services without regard to Chapters 33 and 51 and subchapter III of Chapter 58 of Title 5 [of the U.S. Code];

(B) Travel expenses of enforcement personnel, including sanitarians, from other jurisdictions;

(C) The hiring of the means of transportation;

(D) Meals for policemen, firemen, and other municipal employees;

(E) The cost of removing and relocating streetcar loading platforms, construction, rent, maintenance, and expenses incident to the operation of temporary public comfort stations, first-aid stations, and information booths; and

(F) Other incidental expenses in the discretion of the Mayor; and

(2) To enable the Secretary of the Interior to provide meals for the members of the United States Park Police during the inaugural period.

(b) *Payment.* — Amounts appropriated under:

(1) Subsection (a)(1) of this section are payable in the same way as other appropriations for the expenses of the District of Columbia; and

(2) Subsection (a)(2) of this section are payable in the same way as other appropriations for the expenses of the Department of the Interior.

(Aug. 12, 1998, 112 Stat. 1265, Pub. L. 105-225, § 510.)

Prior Codifications. — 1981 Ed., § 1-1060.

References in text. — “Chapters 33 and 51 and subchapter III of Chapter 58 of Title 5,”

referred to in (a)(1)(A), are references to Title 5 of the U.S. Code.

Subchapter II. After August 6, 1956.

§ 2-821. Definitions.

For the purposes of this chapter:

(1) The term “inaugural period” means the period which includes the day

on which the ceremony of inaugurating the President is held, the 5 calendar days immediately preceding such day, and the 4 calendar days immediately subsequent to such day.

(2) The term "Inaugural Committee" means the committee in charge of the presidential inaugural ceremony and functions and activities connected therewith, to be appointed by the President-elect.

(3) The term "Mayor" means the Mayor of the District of Columbia or his designated agent or agents.

(4) The term "Secretary of Defense" means the Secretary of Defense or his designated agent or agents.

(5) The term "Secretary of the Interior" means the Secretary of the Interior or his designated agent or agents.

(Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 1 (b).)

Prior Codifications. — 1981 Ed., § 1-1801.
1973 Ed., § 1-1201.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-822. Regulations by Council authorized; special registration tags.

(a) For each inaugural period the Council of the District of Columbia is authorized and directed to make all reasonable regulations necessary to secure the preservation of public order and protection of life, health, and property; to make special regulations respecting the standing, movement, and operation of vehicles of whatever character or kind during such period; and to grant, under such conditions as it may impose, special licenses to peddlers and vendors for the privilege of selling goods, wares, and merchandise in such places in the District of Columbia, and to charge such fees for such privilege, as it may deem proper.

(b) The Mayor of the District of Columbia is authorized to issue, for both duly registered motor vehicles and unregistered motor vehicles made available for the use of the Inaugural Committee, special registration tags, valid for a period not exceeding 90 days, designed to celebrate the occasion of the inauguration of the President and Vice President.

(Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 2; Jan. 30, 1968, 82 Stat. 4, Pub. L. 90-251, § 1.)

Prior Codifications. — 1981 Ed., § 1-1802.
1973 Ed., § 1-1202.

New implementing regulations. — New

implementing regulations: Pursuant to this section, the following new regulations were adopted in 1982: The "Presidential Inaugura-

tion Special Regulations and Rule of Interpretation Concerning Nonrevival of Statutes Act of 1982" (D.C. Law 4-125, July 2, 1982, 29 DCR 2093).

Mayor's Orders. — Issuance of 1985 Inaugural License Tags authorized: See Mayor's Order 84-229, December 15, 1984.

Authorization for Issuance of 2001 Presidential Inaugural License, see Mayor's Order 2001-05, January 5, 2001 (48 DCR 939).

Amendment to Mayor's Order 2001-5, dated 1-5-01, Authorization for Issuance of 2001 Presidential Inaugural License Plates, see Mayor's Order 2001-06, January 9, 2001 (48 DCR 941).

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 402(33) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

In general.

Affidavit asserting that regulations which were promulgated by the District of Columbia under the Inaugural Ceremonies Act and which provided for temporary closing of certain streets were not published in accordance with applicable statute requiring publication in one

or more of daily newspapers in area was insufficient to overcome presumptive validity of regulations, in light of admission in affidavit of inability to examine five daily issues of area newspapers during relevant time period. *Smallwood v. D.C. Metro. Police Dep't*, 956 A.2d 705, 2008 D.C. App. LEXIS 396 (2008).

§ 2-823. Appropriations; authorized; use.

There are hereby authorized to be appropriated such sums as may be necessary, payable in like manner as other appropriations for the expenses of the District of Columbia, to enable the Mayor to provide additional municipal services in said District during the inaugural period, including employment of personal services without regard to the civil-service and classification laws; travel expenses of enforcement personnel, including sanitarians, from other jurisdictions; hire of means of transportation; meals for policemen, firemen, and other municipal employees, cost of removing and relocating streetcar loading platforms, construction, rent, maintenance, and expenses, incident to the operation of temporary public comfort stations, first-aid stations, and information booths; and other incidental expenses in the discretion of the Mayor; and such sums as may be necessary, payable in like manner as other appropriations for the expenses of the Department of the Interior, to enable the Secretary of the Interior to provide meals for the members of the United States Park Police during the inaugural period.

(Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 3; Jan. 30, 1968, 82 Stat. 4, Pub. L. 90-251, § 2.)

Prior Codifications. — 1981 Ed., § 1-1803. 1973 Ed., § 1-1203.

References in text. — The "civil-service and classification laws," referred to near the

beginning of the section, are set forth in Title 5 of the United States Code.

Editor's notes. — Federal payment to the District of Columbia: Public Law 104-194, 110

Stat. 2356, the D.C. Appropriations Act, 1997, provided for payment to the District of Columbia, in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, \$5,702,000 as authorized by this section, which shall be apportioned by the Chief Financial Officer within the various appropriations in the act.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-824. Permits for use of federal grounds and reservations.

The Secretary of the Interior, with the approval of such officer as may exercise jurisdiction over any of the federal reservations or grounds in the District of Columbia, is authorized to grant to the Inaugural Committee permits for the use of such reservations or grounds during the inaugural period, including a reasonable time prior and subsequent thereto; and the Mayor is authorized to grant like permits for the use of public space under his jurisdiction. Each such permit shall be subject to such restrictions, terms, and conditions as may be imposed by the grantor of such permit. With respect to public space, no reviewing stand or any stand or structure for the sale of goods, wares, merchandise, food, or drink shall be built on any sidewalk, street, park, reservation, or other public grounds in the District of Columbia, except with the approval of the Inaugural Committee, and with the approval of the Secretary of the Interior or the Mayor, as the case may be, depending on the location of such stand or structure. The reservation, ground, or public space occupied by any such stand or structure shall, after the inaugural period, be promptly restored to its previous condition. The Inaugural Committee shall indemnify and save harmless the District of Columbia and the appropriate agency or agencies of the federal government against any loss or damage to such property and against any liability arising from the use of such property, either by the Inaugural Committee or a licensee of the Inaugural Committee.

(Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 4.)

Prior Codifications. — 1981 Ed., § 1-1804. 1973 Ed., § 1-1204.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-825. Installation of electrical facilities.

The Mayor is authorized to permit the Inaugural Committee to install suitable overhead conductors and install suitable lighting or other electrical facilities, with adequate supports, for illumination or other purposes. If it should be necessary to place wires for illuminating or other purposes over any park or reservation in the District of Columbia, such placing of wires and their removal shall be under the supervision of the official in charge of said park or reservation. Such conductors with their supports shall be removed within 5 days after the end of the inaugural period. The Mayor, or such other officials as may have jurisdiction in the premises, shall enforce the provisions of this chapter, take needful precautions for the protection of the public, and insure that the pavement of any street, sidewalk, avenue, or alley which is disturbed or damaged is restored to its previous condition. No expense or damage from the installation, operation, or removal of said temporary overhead conductors or said illumination or other electrical facilities shall be incurred by the United States or the District of Columbia, and the Inaugural Committee shall indemnify and save harmless the District of Columbia and the appropriate agency or agencies of the federal government against any loss or damage and against any liability whatsoever arising from any act of the Inaugural Committee or any agent, licensee, servant, or employee of the Inaugural Committee.

(Aug. 6, 1956, 70 Stat. 1050, ch. 974, § 5.)

Prior Codifications. — 1981 Ed., § 1-1805. 1973 Ed., § 1-1205.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-826. Installation of communication facilities.

The Mayor, the Secretary of the Interior, and the Inaugural Committee are authorized to permit telegraph, telephone, radio-broadcasting, and television companies to extend overhead wires to such points along the line of any parade as shall be deemed convenient for use in connection with such parade and other inaugural purposes. Such wires shall be removed within 10 days after the conclusion of the inaugural period.

(Aug. 6, 1956, 70 Stat. 1050, ch. 974, § 7.)

Prior Codifications. — 1981 Ed., § 1-1806. 1973 Ed., § 1-1207.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-827. Effective period of regulations and licenses; publication of regulations; penalties.

The regulations and licenses authorized by this chapter shall be in full force and effect only during the inaugural period. Such regulations shall be published in 1 or more of the daily newspapers published in the District of Columbia and no penalty prescribed for the violation of any such regulation shall be enforced until 5 days after such publication. Any person violating any regulation promulgated by the Council of the District of Columbia under the authority of this chapter shall be fined not more than \$100 or imprisoned not more than 30 days. Each and every day a violation of such regulation exists shall constitute a separate offense, and the penalty prescribed shall be applicable to each such separate offense.

(Aug. 6, 1956, 70 Stat. 1051, ch. 974, § 8; Jan. 30, 1968, 82 Stat. 4, Pub. L. 90-251, § 3.)

Prior Codifications. — 1981 Ed., § 1-1807. 1973 Ed., § 1-1208.

Change in Government. — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

In general.

Affidavit asserting that regulations which were promulgated by the District of Columbia under the Inaugural Ceremonies Act and which provided for temporary closing of certain streets were not published in accordance with applicable statute requiring publication in one

or more of daily newspapers in area was insufficient to overcome presumptive validity of regulations, in light of admission in affidavit of inability to examine five daily issues of area newspapers during relevant time period. *Smallwood v. D.C. Metro. Police Dep't*, 956 A.2d 705, 2008 D.C. App. LEXIS 396 (2008).

§ 2-828. Property under jurisdiction of Congress.

Nothing contained in this chapter shall be applicable to the United States Capitol buildings or grounds or other properties under the jurisdiction of the Congress or any committee, commission, or officer thereof: Provided, however,

that any of the services or facilities authorized by or under this chapter shall be made available with respect to any such properties upon request or approval of the joint committee of the Senate and House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect.

(Aug. 6, 1956, 70 Stat. 1051, ch. 974, § 9.)

Prior Codifications. — 1981 Ed., § 1-1808. 1973 Ed., § 1-1209.

§ 2-829. Reference to “Mayor”.

Whenever the term “Mayor” is used in this chapter, such term will be deemed to refer to the Mayor of the District of Columbia.

(Aug. 6, 1956, ch. 974, § 10; Jan. 30, 1968, 82 Stat. 4, Pub. L. 90-251, § 4.)

Prior Codifications. — 1981 Ed., § 1-1809. 1973 Ed., § 1-1211.

Change in Government. — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code,

§ 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CHAPTER 9. SUBMISSION OF STATE ENERGY PLANS. [TRANSFERRED].

Subchapter I. General Provisions

Sec.

2-901 to 2-907. [Transferred].

Subchapter II. Submission of State Energy Plans

2-911. to 2-913. [Transferred].

Subchapter I. General Provisions.

§ 2-901. **Legislative findings; purposes.** [TRANSFERRED].

Recodified as § 8-171.01.

(Mar. 4, 1981, D.C. Law 3-132, § 2, 28 DCR 445.)

Cross references. — Energy Conservation and Production Act, see 42 U.S.C. § 6801 et seq.

Energy Policy Act of 1992, see 42 U.S.C. § 13201 et seq.

Energy Policy and Conservation Act, see 42 U.S.C. § 6201 et seq.

Nonnuclear energy research and development, see 42 U.S.C. § 5901 et seq.

Residential energy conservation, see 42 U.S.C. § 8231 et seq.

Solar energy research and development, see 42 U.S.C. § 5581.

Solar heating and cooling, see 42 U.S.C. § 5501 et seq.

Wind Energy Systems Act, see 42 U.S.C. § 9201 et seq.

§ 2-902. **Definitions.** [TRANSFERRED].

Recodified as § 8-171.02.

(Mar. 4, 1981, D.C. Law 3-132, § 3, 28 DCR 445; Mar. 21, 1987, D.C. Law 6-216, § 13(b), 32 DCR 1072.)

§ 2-903. **Energy policy of District.** [TRANSFERRED].

Recodified as § 8-171.03.

(Mar. 4, 1981, D.C. Law 3-132, § 4, 28 DCR 445.)

§ 2-904. **District of Columbia Office of Energy; energy conservation plan; facilities energy management plan; emergency energy shortage contingency plan; energy research and development program.** [TRANSFERRED].

Recodified as § 8-171.04.

(Mar. 4, 1981, D.C. Law 3-132, § 5, 28 DCR 445; Apr. 12, 2000, D.C. Law 13-91, § 125, 47 DCR 520; Mar. 14, 2007, D.C. Law 16-262, § 402, 54 DCR 794.)

§ 2-905. Review by District Auditor. [Repealed].

Recodified as § 8-171.05.

(Mar. 4, 1981, D.C. Law 3-132, § 6, 28 DCR 445; Oct. 19, 2000, D.C. Law 13-172, § 2404, 47 DCR 6308.)

§ 2-906. Citizens Energy Advisory Committee. [Expired].

Recodified as § 8-171.06.

(Mar. 4, 1981, D.C. Law 3-132, § 7, 28 DCR 445; Aug. 2, 1983, D.C. Law 5-24, § 11, 30 DCR 3341; May 19, 1987, D.C. Law 7-4, § 2, 34 DCR 2334; Oct. 9, 1987, D.C. Law 7-33, § 2, 34 DCR 5314; Apr. 30, 1988, D.C. Law 7-104, § 32, 35 DCR 147; Aug. 17, 1991, D.C. Law 9-45, § 2, 38 DCR 4988.)

§ 2-907. Severability. [Transferred].

Recodified as § 8-171.07.

(Mar. 4, 1981, D.C. Law 3-132, § 8, 28 DCR 445.)

*Subchapter II. Submission of State Energy Plans.***§ 2-911. Submission of state energy plans to Council prior to filing with federal agency. [Transferred].**

Recodified as § 8-1779.01.

(Feb. 24, 1987, D.C. Law 6-173, § 2, 33 DCR 7224.)

Cross references. — State energy conservation plans, Energy Policy and Conservation Act, see 42 U.S.C. § 6321 et seq.

§ 2-912. Limitation of expenditures. [Transferred].

Recodified as § 8-1779.02.

(Feb. 24, 1987, D.C. Law 6-173, § 3, 33 DCR 7224.)

§ 2-913. Review period; time for filing state energy plans; approval. [Transferred].

Recodified as § 8-1779.03.

(Feb. 24, 1987, D.C. Law 6-173, § 4, 33 DCR 7224.)

CHAPTER 10. NATIONAL CAPITAL PLANNING COMMISSION.

Sec.	Sec.
2-1001. General purposes; findings; definitions.	2-1006. Zoning and subdivision functions.
2-1002. National Capital Planning Commission created; composition; officers and employees; advisory and coordinating committees; duties.	2-1007. Transfers from predecessor agencies.
2-1003. Comprehensive plan.	2-1008. Appropriations.
2-1004. Proposed federal and District developments and projects.	2-1009. Acquisition of land — Authorization.
2-1005. Program of public works projects; capital improvements plan.	2-1010. Acquisition of land — Appropriation; control.
	2-1011. Annual report to Congress; annual estimate to Office of Management and Budget.

§ 2-1001. General purposes; findings; definitions.

(a) It is the purpose of this chapter to secure comprehensive planning for the physical development of the National Capital and its environs; to provide for the participation of the appropriate planning agencies of the environs in such planning; and to establish the agency and procedures requisite to the administration of the functions of the federal and District of Columbia governments related to such planning. The Congress hereby finds that the location of the seat of government in the District of Columbia has brought about the development of a metropolitan region extending well into adjoining territory in Maryland and Virginia; that effective comprehensive planning is necessary on a regional basis and of continuing importance to the federal establishment; that the distribution of federal installations throughout the region has been and will continue to be a major influence in determining the extent and character of development; that there is needed a central planning agency for the National Capital region to coordinate certain developmental activities of the many different agencies of the federal and District governments so that such activities may conform with general objectives; that there is an increasing mutuality of interest and responsibility between the various levels of government that calls for coordinate and unified policies in planning both federal and local development in the interest of order and economy; that there are developmental problems of an interstate character, the planning of which requires collaboration between federal, state, and local governments in the interest of equity and constructive action; and that the instrumentalities and procedures herein provided will aid in providing the Congress from time to time with information and advice requisite to legislation. The general objective of this chapter is to enable appropriate agencies to plan for the development of the federal establishment at the seat of government in a manner consistent with the nature and function of the National Capital and with due regard for the rights and prerogatives of the adjoining states and local governments to exercise control appropriate to their functions, and in a manner which will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development.

(b) As used in this chapter:

(1) "Region" or "National Capital region" means the District of Columbia;

Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties.

(2) "Environs" means the territory surrounding the District of Columbia included within the National Capital region.

(3) "National Capital" means the District of Columbia and territory owned by the United States within the environs.

(4) "Planning agency" means any city, county, bi-county, part-county, or regional planning agency authorized under state and local laws to make and adopt comprehensive plans whether or not its jurisdiction is exclusive or concurrent.

(June 6, 1924, 43 Stat. 463, ch. 270, § 1; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3; Apr. 30, 1926, 44 Stat. 374, ch. 198; May 24, 1928, 45 Stat. 726, ch. 726; June 10, 1933, Ex. Ord. No. 6166, § 2; Mar. 2, 1934, 48 Stat. 389, ch. 38, § 1; Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); July 19, 1952, 66 Stat. 781, ch. 949, § 1.)

Cross references. — Comprehensive Plan for the National Capital, District elements, see § 1-306.01.

Section references. — This section is referred to in §§ 2-1007 to 2-1009 and 2-

Prior Codifications. — 1981 Ed., § 1-2001. 1973 Ed., § 1-1001.

Editor's notes. — Council concurrence in amendment adding Diagram No. 1, Special Streets and Places, to comprehensive plan: Pursuant to Resolution 6-137, the "Federal Preser-

vation and Historic Features Element Amendment Concurrence Resolution of 1985," effective May 14, 1985, the Council concurred in the amendment to the federal Preservation and Historic Features Element of the Comprehensive Plan for the National Capital, adding Diagram No. 1, Special Streets and Places.

For re-enactment of this chapter, see Title 40, Subtitle II, Part D, Chapter 87 of the United States Code.

CASE NOTES

Construction with other law.

Foreign embassy's reliance on advice of United States State Department about how to proceed to obtain local permits to construct 38-foot antenna tower at site of chancery in District of Columbia for operation of diplomatic radio station was appropriate and did not constitute waiver of rights under Foreign Missions Act. D.C. Code 1987 Supp., 5-1201 et seq.; Foreign Missions Act, §§ 201 et seq., 202, 203, as amended, 22 U.S.C. §§ 4301 et seq., 4302, 4303. *Embassy of People's Republic of Benin v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 310, 1987 D.C. App. LEXIS 507 (1987).

Foreign Missions Act applied to foreign embassy's application for special exception to construct 38-foot antenna tower at site of chancery in District of Columbia for operation of diplomatic radio station. D.C. Code 1981, § 5-424; D.C. Code 1987 Supp., §§ 5-1201 et seq., 5-1201(a), 5-1202(a)(2), 5-1206, 5-1206(i); Foreign Missions Act, §§ 201 et seq., 201(a), 202,

202(a)(2), 203, 206, 206(d, i), as amended, 22 U.S.C. §§ 4301 et seq., 4301(a), 4302, 4302(a)(2), 4303, 4306, 4306(d, i). *Embassy of People's Republic of Benin v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 310, 1987 D.C. App. LEXIS 507 (1987).

Foreign Missions Act provided exclusive procedure available for consideration of foreign embassy's application to construct 38-foot antenna tower at site of chancery in District of Columbia for operation of diplomatic radio station, and, thus, board of zoning adjustment was without jurisdiction to review application solely under District of Columbia law. D.C. Code 1981, § 5-424; D.C. Code 1987 Supp., §§ 5-1201 et seq., 5-1201(a), 5-1202(a)(2), 5-1206, 5-1206(i); Foreign Missions Act, §§ 201 et seq., 201(a), 202, 202(a)(2), 203, 206, 206(d, i), as amended, 22 U.S.C. §§ 4301 et seq., 4301(a), 4302, 4302(a)(2), 4303, 4306, 4306(d, i). *Embassy of People's Republic of Benin v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 310, 1987 D.C. App. LEXIS 507 (1987).

§ 2-1002. National Capital Planning Commission created; composition; officers and employees; advisory and coordinating committees; duties.

(a)(1) The National Capital Planning Commission (hereinafter referred to as the “Commission”) is created as the central federal planning agency for the federal government in the National Capital, and to preserve the important historical and natural features thereof, except with respect to the United States Capitol Buildings and Grounds as defined in §§ 10-503.11 and 10-503.26, and to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol.

(2) The Mayor of the District of Columbia (hereinafter referred to as the “Mayor”) shall be the central planning agency for the government of the District of Columbia (hereinafter referred to as the “District”) in the National Capital. The Mayor shall be responsible for coordinating the planning activities of the District government and for preparing and implementing the District elements of the comprehensive plan for the National Capital, which may include land use elements, urban renewal and redevelopment elements, a multi-year program of public works for the District, and physical, social, economic, transportation, and population elements. The Mayor’s planning responsibility shall not extend to federal or international projects and developments in the District, as determined by the Commission, or to the United States Capitol Buildings and Grounds as defined in §§ 10-503.11 and 10-503.26, or to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol. In carrying out his responsibility under this section, the Mayor shall establish procedures for citizen participation in the planning process, and for appropriate meaningful consultation with any state or local government or planning agency in the National Capital region affected by any aspect of a comprehensive plan (including amendments thereto) affecting or relating to the District.

(3) The Mayor shall submit each District element of the comprehensive plan, and any amendment thereto, to the Council for revision or modification, and adoption, by act, following public hearings. Following adoption and prior to implementation, the Council shall submit each such element or amendment to the Commission for review and comment with regard to the impact of such element or amendment on the interests or functions of the federal establishment in the National Capital.

(4)(A) The Commission shall, within 60 days after receipt of such a District element of the comprehensive plan, or amendment thereto, from the Council, certify to the Council whether such element or amendment has a negative impact on the interests or functions of the federal establishment in the National Capital. If within such 60 days the Commission takes no action with respect to such element or amendment, such element or amendment shall be deemed to have no such negative impact, and such element or amendment shall be incorporated into the comprehensive plan for the National Capital and shall be implemented.

(B) If the Commission finds, within such 60 days, such negative impact, it shall certify its findings and recommendations with respect to such negative

impact to the Council. Upon receipt of the Commission's findings and recommendations, the Council may: (i) Reject such findings and recommendations and resubmit such element or amendment, in a modified form, to the Commission for reconsideration; or (ii) accept such findings and recommendations and modify such element or amendment accordingly. If the Council accepts such findings and recommendations and modifies such element or amendment under clause (ii) of this subparagraph, the Council shall submit such element or amendment to the Commission for it to determine whether such modification has been made in accordance with the Commission's findings and recommendations. If, within 30 days after receipt of the modified element or amendment, the Commission takes no action with respect to such element or amendment, it shall be deemed to have been modified in accordance with such findings or recommendations, and shall be incorporated into the comprehensive plan for the National Capital and shall be implemented. If within such 30 days, the Commission again determines such element or amendment to have a negative impact on the functions or interests of the federal establishment in the National Capital such element or amendment shall not be implemented.

(C) If the Council rejects the findings and recommendations of the Commission and resubmits a modified element or amendment to it under clause (i) of subparagraph (B) of this paragraph, the Commission shall, within 60 days after receipt of such modified element or amendment from the Council, determine whether such modified element or amendment has a negative impact on the interests or functions of the federal establishment within the National Capital. If the Commission finds such negative impact it shall certify its findings (in sufficient detail that the Council can understand the basis of the objection of the Commission) and recommendations to the Council, and such element or amendment shall not be implemented. If the Commission takes no action with respect to such modified element or amendment within such 60 days, such modified element or amendment shall be deemed to have no such negative impact and shall be incorporated into the comprehensive plan and it shall be implemented. Any element or amendment which the Commission has determined to have a negative impact on the federal establishment in the National Capital, and which is submitted again in a modified form not less than 1 year from the day it was last rejected by the Commission shall be deemed to be a new element or amendment for purposes of the review procedure specified in this section.

(D) The Commission and the Mayor shall jointly publish, from time to time as appropriate, a comprehensive plan for the National Capital, consisting of the elements of the comprehensive plan for the federal activities in the National Capital developed by the Commission, and the District elements developed by the Mayor and the Council in accordance with the provisions of this section.

(E) The Council may grant, upon request made to it by the Commission, an extension of any time limitation contained in this section.

(F) The Commission and the Mayor shall jointly establish procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital.

(b) The National Capital Planning Commission shall be composed of: (1) Ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor, the Chairman of the Council of the District of Columbia and the Chairmen of the Committees on the District of Columbia of the Senate and the House of Representatives, or such alternates as each such person may from time to time designate to serve in his stead, and in addition; (2) five citizens with experience in city or regional planning, 3 of whom shall be appointed by the President and 2 of whom shall be appointed by the Mayor. The citizen members appointed by the Mayor shall be bona fide residents of the District of Columbia and of the 3 appointed by the President at least 1 shall be a bona fide resident of Virginia and at least 1 shall be a bona fide resident of Maryland. The terms of office of members appointed by the President shall be for 6 years, except that of the members first appointed, the President shall designate 1 to serve 2 years and 1 to serve 4 years. Members appointed by the Mayor shall serve for 4 years. The members first appointed under this section shall assume their office on January 2, 1975. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The citizen members shall each receive compensation at the rate of \$100 for each day such member is engaged in the actual performance of duties vested in the Commission in addition to reimbursement for necessary expenses incurred by them in the performance of such duties.

(c) The President shall designate the Chairman of the Commission and the Commission may elect from among its members such other officers as it deems desirable. The Commission is authorized to employ a Director, an Executive Officer, and such other technical and administrative personnel as it may deem necessary. Further, without regard to § 2-225.05 [repealed], the civil service and classification laws, or § 3109 of Title 5, United States Code, the Commission may employ, by contract or otherwise, the temporary or intermittent (not in excess of 1 year) services of city planners, architects, engineers, appraisers, and other experts or organizations thereof, as may be necessary to carry out its functions, and in any such case the rate of compensation shall be fixed by the Commission so as not to exceed the rate usual for similar services.

(d) The Commission may establish, with the consent of each agency concerned as to its representation, such advisory and coordinating committees composed of representatives of such agencies of the federal and District of Columbia governments as may be necessary or helpful to obtain the maximum amount of cooperation and correlation of effort among the various agencies of such governments, in order that the National Capital may be developed in accordance with the comprehensive plan. As it may deem appropriate, the Commission may invite representatives of the planning and developmental agencies of the environs to participate in the work of such committees.

(e) As hereinafter more specifically described in §§ 2-1003 to 2-1006, it shall be among the principal duties of the Commission to:

(1) Prepare, adopt, and amend a comprehensive plan for the federal activities in the National Capital and make related recommendations to the appropriate developmental agencies;

(2) Serve as the central planning agency for the federal government within the National Capital region, and in such capacity to review their development programs in order to advise as to consistency with the comprehensive plan; and

(3) Be the representative of the federal and District governments for collaboration with the Regional Planning Council, as hereinafter provided.

(June 6, 1924, 43 Stat. 463, ch. 270, § 2; July 10, 1952, 66 Stat. 782, ch. 949, § 1; Sept. 25, 1962, 76 Stat. 575, Pub. L. 87-683; Dec. 24, 1973, 87 Stat. 779, Pub. L. 93-198, title II, § 203(a), (b).)

Cross references. — National capital comprehensive plan, District and land use elements, see §§ 1-306.01 and 1-306.02.

Small area action plans, mayor authorized to prepare, see § 1-306.03.

Section references. — This section is referred to in §§ 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2002. 1973 Ed., § 1-1002.

References in text. — The “civil service and classification laws”, referred to in subsection (c) of this section, are set forth in Title 5, United States Code.

Section 2-225.05, referred to in subsection (c), was repealed by D.C. Law 11-259, § 405, 44 DCR 1423, effective April 12, 1997.

Transfer of Functions. — All functions of the Commissioner of Public Buildings and of the Commissioner of Public Roads were transferred to the Administrator of General Services, and the Public Roads Administration, to be known as the Bureau of Public Roads, was transferred to the General Services Administration by § 103(a) of the Act of June 30, 1949, 63 Stat. 380. The office of the Commissioner of Public Buildings was abolished by § 103(b) of that Act. The Bureau of Public Roads was transferred to the Department of Commerce to be administered by the Commissioner of Public Roads subject to the direction and control of the Secretary of Commerce under the provisions of 1949 Reorganization Plan No. 7, § 1, 14 F.R. 5228, 63 Stat. 1070. The Commissioner of Public Roads was redesignated the Federal Highway Administrator by the Act of August 3, 1956, 70 Stat. 990, ch. 937, § 2. Section 3(f)(4) of the Department of Transportation Act provided for the transfer of the office of Federal Highway Administrator to and continuation within the Department of Transportation under the title of Director of Public Roads. Section 3(e) of the same Act established within the Department of Transportation a Federal Highway Administration, headed by an Administrator. A Public Buildings Service, under the direction of a Commissioner, was established December 11, 1949, by the Administrator of General Services, to supersede the abolished Public Buildings Administration. All functions of all other offi-

cers of the Department of the Interior and all functions of all agencies and employees of such Department were, with 2 exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorganization Plan No. 3, §§ 1 and 2, 15 F.R. 3174, 64 Stat. 1262.

Editor's notes. — Regional Planning Council abolished: The Regional Planning Council, referred to in paragraph (3) of subsection (e), was abolished by Reorganization Plan No. 5 of 1966, 31 F.R. 11857.

Termination of advisory committees: Section 14 of the Act of October 6, 1972, 86 Stat. 776, Pub. L. 92-463, provided that advisory committees in existence on January 5, 1973, were to terminate not later than the expiration of the 2-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the federal government, such committee was renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after January 5, 1973, were to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the federal government, such committee was renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress its duration is otherwise provided by law.

Assignment of planning responsibilities under Pub. L. 93-198: Commissioner's Order No. 74-146, dated June 29, 1974 delegated the responsibility to develop local elements of the comprehensive plan and to coordinate the planning activities of the District of Columbia to the Director of the Office of Planning and Management, directed the designation of planning liaison officers in all departments and agencies of the District government, provided for the appointment of and staff support for a citizens' panel to advise the Director of Planning and

Management in the preparation of the comprehensive plan, and designated the Director of Planning and Management as the alternate for the Mayor-Commissioner on the National Capital Planning Commission. These planning responsibilities were subsequently assigned to the Municipal Planning Office by Organization Order No. 50. The Municipal Planning Office was abolished by Mayor's Order No. 79-8, dated January 2, 1979, and the duties, functions, and resources of the Municipal Planning Office were transferred to the Office of Planning and Development by Mayor's Order No. 79-9, dated January 2, 1979.

Comprehensive plan goals and policies: Act of March 3, 1979, D.C. Law 2-134, established the goals and policies of the District of Columbia as the first District element of the comprehensive plan for the National Capital.

Section 4 of the District of Columbia Comprehensive Plan Act of 1984 (D.C. Law 5-76) repealed the District of Columbia Comprehensive Plan Goals and Policies Act of 1978 (D.C. Law 2-134).

District of Columbia Comprehensive Plan of 1984: Section 3 of D.C. Law 5-76 sets forth titles I through X adopted by the Council of the District of Columbia entitled "The District of Columbia Comprehensive Plan for 1984," and was reprinted in its entirety in 31 DCR 1049 and is contained in the 10 DCMR compilation. On April 5, 1984, the National Capital Planning Commission adopted a resolution finding that "the District elements adopted and amended by the Council by D.C. Act 5-112 do not have a negative impact on the interests or functions of the Federal Establishment in the National Capital."

Section 2 of D.C. Law 8-129, as amended by § 201 of D.C. Law 8-132, amended Titles I through VIII, X and XI, and added Title XII to the District of Columbia Comprehensive Plan of 1984, adopted by D.C. Law 5-76. D.C. Law 8-129 was reprinted in its entirety in 37 DCR 55. Amended Titles I through VII, X, XI, and new Title XII will be codified at Title 10 of the District of Columbia Municipal Regulations. D.C. Law 8-132 is found at 38 DCR 2213.

Repeal of § 2 of D.C. Law 5-187: Section 3(a) of D.C. Law 12-275 provided that § 2 of D.C. Law 5-187 is repealed effective April 27, 1999. Section 2 of D.C. Law 5-187 had added a new title XI to the District of Columbia Comprehensive Plan of 1984 adopted by D.C. Law 5-76.

Definitions applicable: The definitions contained in § 1-201.03 apply to terms appearing in this section.

Concurrence with Preservation and Historic Features Element of Comprehensive Plan for the National Capital: Section 6 of D.C. Law 5-76 provided that the Council of the District of Columbia concurs with the Preservation and Historic Features Element of the Comprehensive Plan for the National Capital adopted by the National Capital Planning Commission to the extent the Preservation and Historic Features Element is consistent with titles I and VIII of the act.

Review of District elements by National Capital Planning Commission: Section 8(b) of D.C. Law 5-76, § 6(b) of D.C. Law 5-187, and § 4(b) of D.C. Law 8-129, provided that no District element of the Comprehensive Plan for the National Capital shall take effect until it has been reviewed by the National Capital Planning Commission as provided in subsection (a) of this section and § 1-244(a) [§ 1-204.23, 2001 Ed.].

Conformance of federal plan to amendment of District of Columbia Comprehensive Plan: Section 5 of D.C. Law 5-187 provided that the Council concurs in the adoption of an amendment to conform the federal Preservation and Historic Features Element of the Comprehensive Plan for the National Capital to the amendment made to § 808 of the District of Columbia Comprehensive Plan by § 3(c) of the act, which directed certain additions to the network of special streets and places.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

ANALYSIS

Construction with other laws.
Judicial review.

Construction with other laws.

National Capital Planning Commission's review of amendment to Comprehensive Plan for the National Capital which would allow com-

mercial development in park did not constitute an "undertaking" to which obligations under the National Historic Preservation Act (NHPA) would attach, were possible adverse effects created by the amendment were considered to the satisfaction of the Advisory Council on Historic Preservation when the District of Columbia purchased the park from the federal government. Park and Playground Act, § 2, as amended, 40 U.S.C. § 71a; National Historic Preservation Act, §§ 106, 201, 211, 301, 301(7), as amended, 16 U.S.C. §§ 470f, 470i, 470s, 470w, 470w(7). *McMillan Park Commission v. National Capital Planning Commission*, D.C. Cir., 968 Fd. 1283 (1992).

After effective date of District of Columbia's Home Rule Act, National Capital Planning Commission's planning rule is limited to preparing federal elements of comprehensive plan for National Capital and to exercise veto authority over those proposed district elements which it finds will have negative impact on interest of federal establishment. District of Columbia Self-Government and Governmental Reorganization Act, § 101 et seq., D.C. Code

preceding section 1-101. *Citizens Asso. of Georgetown v. Zoning Com. of District of Columbia*, 392 A.2d 1027, 1978 D.C. App. LEXIS 328 (1978).

Only comprehensive plan with which statute governing purposes of zoning regulations requires that zoning must be consistent is the plan to be adopted pursuant to procedures of the District of Columbia's Home Rule Act. D.C. Code §§ 1-1002(a)(4)(D), 1-1501 et seq., 5-414. *Citizens Asso. of Georgetown v. Zoning Com. of District of Columbia*, 392 A.2d 1027, 1978 D.C. App. LEXIS 328 (1978).

Judicial review.

Court of Appeals lacked jurisdiction under the District of Columbia Administrative Procedure Act to review decision of the Joint Committee on Landmarks of the National Capital which designated a building as a historic landmark since the Joint Committee was not a District of Columbia agency. D.C. Code 1981, § 1-1510(a). *A & G Ltd. Partnership v. Joint Committee on Landmarks of Nat'l Capital*, 449 A.2d 291, 1982 D.C. App. LEXIS 403 (1982).

§ 2-1003. Comprehensive plan.

(a) The Commission is hereby charged with the duty of preparing and adopting a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for federal developments or projects in the environs, and those District elements, or amendments thereto, of the comprehensive plan adopted by the Council and with respect to which the Commission has not determined a negative impact to exist, which elements or amendments shall be incorporated into such comprehensive plan without change. The Commission shall collaborate with the National Capital Regional Planning Council in the development of those elements of the plan for the National Capital. While consistency between the respective proposals of the Commission and the National Capital Regional Planning Council shall be sought, lack of action or agreement by the National Capital Regional Planning Council shall not prevent the Commission from adopting any part of its plan or any recommendation or proposal for federal developments or projects in the environs. The Commission may include in its plan any portion of any plan adopted by the National Capital Regional Planning Council or any planning agency in the environs and from time to time make recommendations of collateral interest to the National Capital Regional Planning Council or to the aforesaid agencies.

(b) The Commission may, as the work of preparing the comprehensive plan progresses, adopt any element or a part or parts thereof and from time to time shall review and may amend or extend the plan, in order that its recommendations may be kept up to date.

(c)(1) Prior to the final adoption of the comprehensive plan or any element thereof, or any subsequent revision, the Commission shall present such plan,

element, or revision to the appropriate federal or District of Columbia authorities for comment and recommendations. Presentation of proposed revisions may at the Commission's discretion be made annually in a consolidated form. The said recommendations by federal and District of Columbia authorities shall not be binding on the Commission, but it shall give careful consideration to such views and recommendations as are submitted prior to final adoption. The Commission may, in addition and at its discretion, periodically provide opportunity by public hearings, meetings, or conferences, exhibitions and publication of its plans, for review and comments by nongovernmental agencies or groups, and, in consultation with the District of Columbia Council, encourage the formation of 1 or more citizen advisory councils.

(2) In carrying out its planning functions with respect to federal developments or projects in the environs, the Commission may act in conjunction and cooperation and enter into agreements with any state or local authority or planning agency, as the Commission may deem necessary, to effectuate the adoption of any plan or proposal and secure its realization.

(June 6, 1924, 43 Stat. 464, ch. 270, § 4; July 19, 1952, 66 Stat. 785, ch. 949, § 1; Dec. 24, 1973, 87 Stat. 782, Pub. L. 93-198, title II, § 203(c)(3).)

Cross references. — National capital comprehensive plan, District and land use elements, see §§ 1-306.01 and 1-306.02.

Rental and utilization of public space, rental of airspace, powers of mayor with respect to use of airspace, see § 10-1121.02.

Zoning, rules, consistency with comprehensive plan, see § 6-641.02.

Section references. — This section is referred to in §§ 2-1002, 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2003. 1973 Ed., § 1-1004.

Editor's notes. — National Capital Regional Planning Council abolished: The National Capital Regional Planning Council, referred to in subsection (a) of this section, was abolished by Reorganization Plan No. 5 of 1966, 31 F.R. 11857.

District of Columbia Comprehensive Plan of 1984: Section 3 of D.C. Law 5-76 sets forth titles I through X adopted by the Council of the District of Columbia entitled "The District of Columbia Comprehensive Plan for 1984," and was reprinted in its entirety in 31 DCR 1049 and is contained in the 10 DCMR compilation. On April 5, 1984, the National Capital Planning Commission adopted a resolution finding that "the District elements adopted and amended by the Council by D.C. Act 5-112 do not have a negative impact on the interests or functions of the Federal Establishment in the National Capital."

Repeal of § 2 of D.C. Law 5-187: Section 3(a) of D.C. Law 12-275 provided that § 2 of D.C.

Law 5-187 is repealed effective April 7, 1999. Section 2 of D.C. Law 5-187 had added a new title XI to the District of Columbia Comprehensive Plan of 1984 adopted by D.C. Law 56-76.

Definitions applicable: The definitions contained in § 1-201.03 apply to this section.

District Element of the Comprehensive Plan for the National Capital: Section 8(b) of D.C. Law 16-300, as amended by section 201(b) of D.C. Law 17-5, provided: "No District element or amendment of the Comprehensive Plan for the National Capital shall take effect until it has been reviewed by the National Capital Planning Commission as provided in section 2(a) of the National Capital Planning Act of 1952, approved June 6, 1924 (43 Stat. 463; D.C. Official Code § 2-1002(a)), and section 423 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 792; D.C. Official Code § 1-204.23)."

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(28) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818,

§ 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and

the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

ANALYSIS

Construction with federal law.
Environmental impact.
Judicial review.

Construction with federal law.

National Environmental Policy Act was not intended to reach zoning operations on the local governmental level. National Environmental Policy Act of 1969, §§ 1 et seq., 102, 42 U.S.C. §§ 4321 et seq., 4332. *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

Environmental impact.

District of Columbia Zoning Commission and the National Capital Planning Commission are not required to prepare an environmental impact statement in connection with their considerations of application for redevelopment of apartment complex either under provision of District Zoning Regulations governing planned unit developments or provisions governing amendments of zoning maps and zoning regulations. National Environmental Policy Act of 1969, §§ 1 et seq., 101, 102, 42 U.S.C. §§ 4321 et seq., 4331, 4332; District of Columbia Self-Government and Governmental Reorganization Act, §§ 101 et seq., 102(a), 203, 423, 492, 87 Stat. 774; D.C. Code §§ 5-412 et seq., 5-417. *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

Although the District of Columbia Zoning Commission and National Capital Planning Commission are not required to prepare an environmental impact statement in connection with applications under the District's zoning regulations for planned unit development or for amendment of zoning maps and zoning regulations, the environmental policies delineated in the National Environmental Policy Act should find expression in the planning and zoning process in the District; proper avenue for implementation of the purposes of the NEPA is in the planning operations of the National Capital Planning Commission, particularly in formulation of the Comprehensive Plan. National Environmental Policy Act of 1969, §§ 1 et seq., 102, 42 U.S.C. §§ 4321 et seq., 4332; District of Columbia Self-Government and Governmental Reorganization Act, § 101 et seq., 87 Stat. 774; National Capital Planning Act of 1952, § 4(a),

40 U.S.C. § 71c(a); D.C. Code § 1-1004(a). *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

When passing on application for planned unit developments or amendments to zoning map and regulations the District of Columbia Zoning Commission is not free to ignore environmental policy; where the potential environmental effects of the Commission's decision are substantial, it must at least consider the environmental issue to fulfill its public interest mandate. District of Columbia Self-Government and Governmental Reorganization Act, §§ 203, 423, 492, 87 Stat. 774. *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

Absence of presently pending application for redevelopment of apartment complex rendered request for determination of whether requirement of an environmental impact statement would be triggered by redevelopment of apartment complex at an increased density, on ground that such development would violate District of Columbia comprehensive plan, one for an advisory opinion, outside scope of district court's jurisdiction; record at instant stage of proceedings did not contain sufficient factual information to resolve the legal issues and validity of plaintiffs' argument was contingent on events which had not yet occurred and might not occur. National Environmental Policy Act of 1969, §§ 1 et seq., 102, 42 U.S.C. §§ 4321 et seq., 4332; District of Columbia Self-Government and Governmental Reorganization Act, § 101 et seq., 87 Stat. 774; U.S. Const. art. 3, § 2. *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

Absence of pending application for redevelopment of apartment complex did not render request for determination of whether requirement of an environmental impact statement would be triggered by redevelopment under either District of Columbia Zoning Regulation for planned unit developments or provisions for amendment of zoning maps a request for advisory opinion since issues were legal ones involving construction of statutes and regulations and were basically independent of facts surrounding a specific redevelopment proposal, redevelopment would have to occur under one of the two provisions and disposing of matter

would avoid subsequent prolonged interference with the administrative process. National Environmental Policy Act of 1969, §§ 1 et seq., 102, 42 U.S.C. §§ 4321 et seq., 4332; District of Columbia Self-Government and Governmental Reorganization Act, § 101 et seq., 87 Stat. 774; U.S. Const. art. 3, § 2. *McLean Gardens Residents, Asso. v. National Capital Planning Com.*, 390 F. Supp. 165, 1974 U.S. Dist. LEXIS 8239 (1974).

Judicial review.

Board of Zoning Adjustment order approving university's plan for campus development during 15-year period had sufficient attributes of finality to permit appellate review; order was consummation of plan approval process and made clear that all future applications for special exceptions would be measured for their consistency with plan, regardless of whether they were in special purpose districts or in residential zoning districts. D.C. Code 1981, §§ 1-1501 et seq., 1-1502(11), 1-1510(a). *Levy v.*

District of Columbia Bd. of Zoning Adjustment, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

While Board of Zoning Adjustment is not required to defer to advisory neighborhood commission's views, failure to address commission's concerns with particularity is grounds for remand even if other procedural requirements are met. D.C. Code 1981, § 1-261(d). *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

Portion of Board of Zoning Adjustment's order approving university's campus development plan, which deleted, without explanation, condition requiring university to locate off-campus interim space leased for office and administrative purposes in commercial districts required remand; Board's conclusion was not supported by subsidiary findings of fact and conflicted with order's findings. D.C. Code 1981, § 1-261(d). *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 1990 D.C. App. LEXIS 36 (1990).

§ 2-1004. Proposed federal and District developments and projects.

(a) In order to insure the comprehensive planning and orderly development of the National Capital, each federal and District of Columbia agency, prior to the preparation of construction plans originated by such agency for proposed developments and projects or to commitments for the acquisition of land, to be paid for in whole or in part from federal or District funds, shall advise and consult with the Commission in the preparation by the agency of plans and programs in preliminary and successive stages which affect the plan and development of the National Capital: Provided, however, that the Commission shall determine in advance the type or kinds of plans, developments, projects, improvements, or acquisitions which do not need to be submitted for review by the Commission as to conformity with its plans. After receipt of such plans, maps, and data, it shall be the duty of the Commission to make promptly a preliminary report and recommendations to the agency or agencies concerned. If, after having received and considered the report and recommendations of the Commission the agency does not concur, it shall advise the Commission with its reasons therefor, and the Commission shall submit a final report. After such consultation and suitable consideration of the views of the Commission the agency may proceed to take action in accordance with its legal responsibilities and authority.

(b) The procedure prescribed in subsection (a) of this section shall not apply to projects within the Capitol grounds or to structures erected by the Department of Defense during wartime or national emergency within existing military, naval, or air force reservations, except that the appropriate defense agency shall consult with the Commission as to any developments which materially affect traffic or require coordinated planning of the surrounding area.

(c) The provisions of § 6-641.15 are extended to include public buildings

erected by any agency of the government of the District of Columbia within the boundaries of the central area of the District, as such central area may be defined and from time to time redefined by concurrent action of the Commission and the Council, except that the Commission shall transmit its approval or disapproval respecting any such building within 30 days after the day it was submitted to the Commission.

(d) Within the environs, general plans showing the location, character, extent and intensity of use for proposed federal and District developments and projects involving the acquisition of land, shall be submitted to the Commission for report and recommendations before final commitment to said acquisition, unless such matters shall have been specifically approved by an act of Congress. Before acting on any general plan, the Commission shall advise and consult with the National Capital Regional Planning Council and the appropriate planning agency having jurisdiction over the affected part of the environs. When, in the judgment of the Commission, proposed developments or projects submitted to the Commission under subsection (a) of this section involve a major change in the character or intensity of an existing use in the environs, the Commission shall likewise advise and consult with the National Capital Regional Planning Council and the aforesaid planning agency. The report and recommendations required under this subsection shall be submitted within 60 days and shall be accompanied by any reports or recommendations that may have been prepared by the National Capital Regional Planning Council or the aforesaid planning agency.

(e) It is the intent of this section to obtain cooperation and correlation of effort between the various agencies of the federal government which are responsible for public developments and projects, including the acquisition of land. These agencies, therefore, shall look to the Commission and utilize it as the central planning agency for the federal activities in the National Capital region. To aid the Commission in carrying out this function, plans, data, and records, or copies thereof, necessary to the Commission shall be furnished upon its request by such federal and District governmental agencies; and the Commission shall likewise furnish related plans, data, and records, or copies thereof, to federal and District of Columbia governmental agencies upon request.

(June 6, 1924, ch. 270, § 5; July 19, 1952, 66 Stat. 787, ch. 949, § 1; Dec. 24, 1973, 87 Stat. 782, Pub. L. 93-198, title II, § 203(d).)

Cross references. — Rental and utilization of public space, rental of airspace, federal and district governments, conditional authorization to construct structures, review by National Capital Planning Commission, see § 10-1121.11.

Zoning, rules, consistency with comprehensive plan, see § 6-641.02.

Section references. — This section is referred to in §§ 2-1002, 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2004.

1973 Ed., § 1-1005.

Editor's notes. — National Capital Regional Planning Council abolished: The National Capital Regional Planning Council, referred to in subsection (d), was abolished by Reorganization Plan No. 5 of 1966, 31 F.R. 11857.

Metropolitan Washington Airports Authority established: D.C. Law 6-67, effective December 3, 1985, endorsed on behalf of the District government the creation of a regional airport authority to acquire Washington National Air-

port now Reagan National Airport and Washington Dulles International Airport from the federal government.

Definitions applicable: The definitions contained in § 1-201.03 apply to this section.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(29) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

In general.

Where Congress by statute directed that construction of bridge between the District of Columbia and Virginia go forward “notwithstanding any other provision of law or any court decision or administrative action to the contrary” and that work should commence within 30 days, provisions of the D.C. Code relating to construction and planning of highways, both those which the Court of Appeals had held to be applicable in its prior opinion and those not mentioned in the prior opinion, were rendered inapplicable to the extent that compliance with such provisions would conflict with the direc-

tion that work commence within 30 days, but authorities were not precluded from taking advantage of any of the provisions which they might find desirable or useful in connection with the project. Act Aug. 23, 1968, § 23, 82 Stat. 815; D.C. Code §§ 1-1005(a), 1-1407(a)(7), 7-108, 7-109, 7-115, 7-122, 8-115. D. C. Federation of Civic Ass'ns v. Volpe, 459 F.2d 1231, 1971 U.S. App. LEXIS 7660 (C.A.D.C. 1971), writ of certiorari denied by 405 U.S. 1030, 92 S. Ct. 1290, 31 L. Ed. 2d 489, 1972 U.S. LEXIS 4183, 3 Env't Rep. Cas. (BNA) 1950, 2 Env'tl. L. Rep. 20096 (1972).

§ 2-1005. Program of public works projects; capital improvements plan.

(a) The Commission shall recommend a 6-year program of public works projects for the federal government which it shall review annually with the agencies concerned. To this end, each federal agency shall submit to the Commission in the 1st quarter of each fiscal year a copy of its advance program of capital improvements within the National Capital and its environs.

(b) The Mayor shall submit to the Commission, by February 1st of each year, a copy of the multiyear capital improvements plan for the District developed by him under § 1-204.44. The Commission shall have 30 days within which to comment upon such plan but shall have no authority to change or disapprove of such plan.

(June 6, 1924, ch. 270, § 7; July 19, 1952, 66 Stat. 789, ch. 949, § 1; Dec. 24, 1973, 87 Stat. 782, Pub. L. 93-198, title II, § 203(f).)

Section references. — This section is referred to in §§ 2-1002, 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2005. 1973 Ed., § 1-1007.

Editor's notes. — Definitions applicable: The definitions contained in § 1-201.03 apply to this section.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(32) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of

Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-1006. Zoning and subdivision functions.

(a) The Commission may make a report and recommendation to the Zoning Commission of the District of Columbia, as provided in § 6-641.05, on proposed amendments of the zoning regulations and maps as to the relation, conformity, or consistency of such amendments with the comprehensive plan for the National Capital. The Commission may also submit to the said Zoning Commission proposed amendments or general revisions to the zoning regulations or the zoning map for said District.

(b) When requested by a properly authorized representative of the Commission, the Zoning Commission may at its discretion recess for a reasonable period of time any public hearing held by it to consider a proposed amendment to the zoning regulations or map, in order that the Commission or its representative may have an opportunity to present to the Zoning Commission a further report on the proposed amendment.

(c) The functions vested in the Commission pursuant to this section may, to such extent as the Commission shall determine, and subject to confirmation by the Commission when requested by the Zoning Commission of the District of Columbia, be performed by a committee of the Commission which shall be known as the Zoning Committee of the National Capital Planning Commission and shall consist of not less than 3 members of the Commission designated by the Commission for the purpose. The number of members serving on the Zoning Committee may be varied from time to time.

(d) Any proposed change in or addition to the regulations or general orders regulating the platting and subdividing of lands and grounds in the District of Columbia shall first be submitted to the Commission by the Council of the District of Columbia for report and recommendation prior to adoption by such Council. Should the Council not concur in the recommendations of the Commission, it shall so advise the Commission with its reasons therefor and the Commission shall submit a final report within 30 days. After consideration of this final report, the Council may proceed to take action in accordance with its legal responsibilities and authority. It shall be the duty of the Commission to submit any proposed changes in or amendments to the general orders that the Commission considers appropriate and the Council shall treat the amendments proposed in the same manner as other proposed amendments.

(June 6, 1924, ch. 270, § 8; July 19, 1952, 66 Stat. 790, ch. 949, § 1; Dec. 24, 1973, 87 Stat. 783, Pub. L. 93-198, title II, § 203(g).)

Cross references. — Zoning commission, authority and regulations, see §§ 6-641.01 and 6-641.02.

Section references. — This section is referred to in §§ 2-1002, 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2006. 1973 Ed., § 1-1008.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

ANALYSIS

Environmental impact.

In general.

Judicial review.

Powers and duties of zoning commission.

Environmental impact.

Judgment as to environmental impact is a determination of policy committed to discretion of the District of Columbia Zoning Commission alone; where the Commission has struck a balance between environmental and other factors, the court will not reverse its decision simply because the court would have attached different weights to the competing interests. National Environmental Policy Act of 1969, §§ 2 et seq., 101-103, 42 U.S.C. §§ 4321 et seq., 4331-4333. *Citizens Ass'n of Georgetown, Inc. v. Zoning Com. of District of Columbia*, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

Declaration of a national environmental policy, as contained in statement of policies and goals of National Environmental Policy Act of 1969, would appear to apply to District of Columbia Zoning Commission's refusal to enact interim amendment to zoning ordinance temporarily preventing major construction not in conformance with comprehensive recommendations of National Planning Commission, a federal agency, as to development of waterfront area, although subsequent sections, which are directed to federal agencies, apparently do not, at least in absence of federal financial assistance; Zoning Commission's actions should conform to policies and objectives of Act. National Environmental Policy Act of 1969, §§ 2 et seq., 101-103, 42 U.S.C. §§ 4321 et seq., 4331-4333. *Citizens Ass'n of Georgetown, Inc. v. Zoning Com. of District of Columbia*, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

In general.

The District of Columbia Zoning Commis-

sion, in determining whether to adopt interim amendment to zoning ordinance preventing major construction in waterfront area until completion of study looking toward implementation of National Capitol Planning Commission's comprehensive land use plan, was not bound to follow NCP's recommendation to adopt interim amendment; Zoning Commission was not required to show a compelling public interest before it could override recommendation. D.C. Code §§ 1-1001 et seq., 1-1008(a), 5-413. *Citizens Ass'n of Georgetown, Inc. v. Zoning Com. of District of Columbia*, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

Words "comprehensive plan," as used in statutory requirement that zoning regulations adopted by District of Columbia Zoning Commission be in accordance with comprehensive plan does not refer to comprehensive land use plan which the National Capitol Planning Commission is charged with preparing; rather, such requirement refers to the Commission's obligation to zone on a uniform and comprehensive basis. D.C. Code §§ 1-1001 to 1-1013. *Citizens Ass'n of Georgetown, Inc. v. Zoning Com. of District of Columbia*, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

Judicial review.

In reviewing refusal by District of Columbia Zoning Commission to enact interim amendment to zoning ordinance preventing major construction not in conformance with National Capitol Planning Commission's comprehensive recommendations as to development of waterfront area until completion of pending area study, Court of Appeals would consider only whether Commission acted arbitrarily and capriciously, i. e., whether its decision had no substantial relationship to the general welfare. D.C. Code §§ 1-1001 et seq., 1-1008(a), 5-413. *Citizens Ass'n of Georgetown, Inc. v. Zoning*

Com. of District of Columbia, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

Powers and duties of zoning commission.

District of Columbia Zoning Commission was required, within 45 days, to provide statement of reasons for refusal to adopt proposed interim amendment "downzoning" waterfront area to prevent its commercial development until completion of ongoing area study looking toward implementation of National Capitol Planning Commission's recommendations that area be devoted to low-density residential and parkland use rather than to existing commercial uses; facts of case compelled need for articulation of reasons by Commission, Commission had rejected NCPC's recommendations thereby depriving court of that agency's report to provide some explanation for Commission's action and without statement of reasons it could not be known whether substantial potential envi-

ronmental effects had been assessed. D.C. Code §§ 1-1001 to 1-1013; National Environmental Policy Act of 1969, §§ 2 et seq., 101-103, 42 U.S.C. §§ 4321 et seq., 4331-4333. *Citizens Ass'n of Georgetown, Inc. v. Zoning Com. of District of Columbia*, 477 F.2d 402, 1973 U.S. App. LEXIS 11831 (C.A.D.C. 1973).

District of Columbia Zoning Commission must accord substantial weight and respect to the National Planning Commission's statutorily authorized commentary on proposed maps, regulations and amendments to the comprehensive plan; the record must contain a strong basis for resort to a different interpretation. D.C. Code §§ 1-1002, 1-1004(a), 1-121, 1-126, 1-1001 et seq., 1-1002(a)(4), (a)(4)(D, F), (e), 1-1008(a), 1-1510, 5-413, 5-414; U.S. Const. art. 1, § 8, cl. 17. *Capitol Hill Restoration Soc. v. Zoning Com.*, 380 A.2d 174, 1977 D.C. App. LEXIS 278 (1977).

§ 2-1007. Transfers from predecessor agencies.

All other functions, powers, and duties of the National Capital Park and Planning Commission, including those formerly vested in the Highway Commission established by §§ 9-103.01 to 9-103.04 and 9-103.05 [repealed], and those formerly vested in the National Capital Park Commission by §§ 2-1001, 2-1009, 2-1010, and 2-1011, together with the personnel, records, property, and unexpended balances (available or to be made available) of appropriations, allocations, and all other funds, including trust funds, of the National Capital Park and Planning Commission, are hereby transferred to the Commission.

(June 6, 1924, ch. 270, § 9; July 19, 1952, 66 Stat. 790, ch. 949, § 1.)

Section references. — This section is referred to in §§ 2-1008, 2-1009, and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2007. 1973 Ed., § 1-1009.

References in text. — Section 9-103.05 was repealed by D.C. Law 4-201, § 711, effective March 10, 1983.

§ 2-1008. Appropriations.

There are hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated and in any appropriate appropriation act other than the annual District of Columbia appropriation act, such sums as may be necessary to carry out the provisions of §§ 2-1001 to 2-1008, any existing provisions of law to the contrary notwithstanding.

(June 6, 1924, ch. 270, § 10; July 19, 1952, 66 Stat. 791, ch. 949, § 1.)

Section references. — This section is referred to in §§ 2-1009 and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2008. 1973 Ed., § 1-1010.

§ 2-1009. Acquisition of land — Authorization.

Said Commission or a majority thereof is authorized and directed to acquire

such lands as in its judgment shall be necessary and desirable in the District of Columbia and adjacent areas in Maryland and Virginia, within the limits of the appropriations made for such purposes, for suitable development of the National Capital park, parkway, and playground system. Said Commission is authorized to acquire such lands by purchase when they can be acquired at prices reasonable in the judgment of said Commission, otherwise by condemnation proceedings, such proceedings to acquire lands within the District of Columbia to be in accordance with the provisions of the Act of August 30, 1890, 26 Stat. 412, ch. 837, the Chief of Engineers of the Army being, for the purposes of this chapter, hereby clothed with all the power vested by the said Act of August 30, 1890, in the Board thereby created. Said Commission is hereby authorized to acquire such lands, located in Maryland or Virginia, either by purchase or condemnation proceedings, by such arrangements as to acquisition and payment for the lands as it shall determine upon by agreement with the proper officials of the States of Maryland and Virginia. In the selection of lands to be acquired the advice of the Commission of Fine Arts shall be requested. The designation of all lands to be acquired by condemnation, all contracts for purchase of lands, and all agreements between said Commission and the officials of the States of Maryland and Virginia shall be subject to the approval of the President of the United States.

(June 6, 1924, 43 Stat. 463, ch. 270, § 11; July 19, 1952, 66 Stat. 791, ch. 949, § 2.)

Section references. — This section is referred to in §§ 2-1007 and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2009. 1973 Ed., § 1-1011.

References in text. — Act of August 30, 1890, 26 Stat. 412, ch. 837, created a board to acquire land for the Government Printing Office and established the procedure for such acquisition.

Editor's notes. — Delegation of functions: The authority of the President under the last sentence of this section was delegated to the Director of the Office of Management and Budget, by § 9(4) of Executive Order No. 11609, July 22, 1971, 36 F.R. 13747.

§ 2-1010. Acquisition of land — Appropriation; control.

There is authorized to be appropriated, each year, in the annual District of Columbia appropriation act, a sum not exceeding \$.01 for each inhabitant of the continental United States as determined by the last preceding decennial census, said sum to be used by said Commission for the payment of its expenses and for the acquisition of the lands herein authorized to be acquired by said Commission for the purposes named, the compensation for the land, the expense of surveys, ascertainment of title, condemnation proceedings, if any, and necessary conveyancing to be paid from said appropriations. The funds so appropriated shall be paid from the revenues of the District of Columbia and the general funds of the Treasury in the same proportion as other expenses of the District of Columbia. The land so acquired within the District of Columbia shall be a part of the park system of the District of Columbia and be under control of the Director of the National Park Service. Areas suitable for playground purposes may, in the discretion of said Commission, be assigned to the control of the Mayor of the District of Columbia for

playground purposes. The land so acquired outside the District of Columbia shall be controlled as determined by agreement between said Commission and the proper officers of the States of Maryland and Virginia, such agreements to be subject to the approval of the President.

(June 6, 1924, 43 Stat. 463, ch. 270, § 12; Feb. 26, 1925, 43 Stat. 983, ch. 339, § 3; June 10, 1933, Ex. Ord. No. 6166, § 2; Mar. 2, 1934, 48 Stat. 389, ch. 38, § 1; July 19, 1952, 66 Stat. 791, ch. 949, § 2.)

Section references. — This section is referred to in §§ 2-1007, 2-1009 and 2-1011.

Prior Codifications. — 1981 Ed., § 1-2010. 1973 Ed., § 1-1012.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-1011. Annual report to Congress; annual estimate to Office of Management and Budget.

Said Commission shall report to Congress annually on the 1st Monday of March the lands acquired during the preceding fiscal year, the method of acquisition, and the cost of each tract. It shall also submit to the Office of Management and Budget on or before December 15th of each year its estimate of the total sum to be appropriated for expenditure under the provisions of §§ 2-1001 to 2-1011 during the succeeding fiscal year.

(June 6, 1924, 43 Stat. 464, ch. 270, § 13; July 19, 1952, 66 Stat. 791, ch. 949, § 2; Apr. 21, 1976, 90 Stat. 379, Pub. L. 94-273, § 21.)

Section references. — This section is referred to in §§ 2-1007 and 2-1009.

Prior Codifications. — 1981 Ed., § 1-2011. 1973 Ed., § 1-1013.

CHAPTER 11. WASHINGTON METROPOLITAN REGION DEVELOPMENT.

Sec.	Sec.
2-1101. Congressional declaration.	tee on Washington Metropolitan Problems.
2-1102. Congressional policy.	
2-1103. Priority projects.	2-1105. "Washington metropolitan region" defined.
2-1104. Study of final report of Joint Commit-	

§ 2-1101. Congressional declaration.

The Congress hereby declares that, because the District which is the seat of the government of the United States and has now become the urban center of a rapidly expanding Washington metropolitan region, the necessity for the continued and effective performance of the functions of the government of the United States at the seat of said government in the District of Columbia, the general welfare of the District of Columbia and the health and living standards of the people residing or working therein and the conduct of industry, trade, and commerce therein require that the development of the District of Columbia and the management of its public affairs shall, to the fullest extent practicable be coordinated with the development of the other areas of the Washington metropolitan region and with the management of the public affairs of such other areas, and that the activities of all of the departments, agencies, and instrumentalities of the federal government which may be carried out in, or in relation to, the other areas of the Washington metropolitan region shall, to the fullest extent practicable, be coordinated with the development of such other areas and with the management of their public affairs; all toward the end that, with the cooperation and assistance of the other areas of the Washington metropolitan region, all of the areas therein shall be so developed and the public affairs thereof shall be so managed as to contribute effectively toward the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

(June 27, 1960, 74 Stat. 223, Pub. L. 86-527, § 2.)

Section references. — This section is referred to in §§ 2-1102, 2-1103, and 2-1105.

Prior Codifications. — 1981 Ed., § 1-2101. 1973 Ed., § 1-1301.

§ 2-1102. Congressional policy.

The Congress further declares that the policy to be followed for the attainment of the objective established by § 2-1101, and for the more effective exercise by the Congress, the executive branch of the federal government and the Mayor of the District of Columbia and all other officers and agencies and instrumentalities of the District of Columbia of their respective functions, powers, and duties in respect of the Washington metropolitan region, shall be that all such functions, powers, and duties shall be exercised and carried out in such manner as (with proper recognition of the sovereignty of the State of Maryland and the Commonwealth of Virginia in respect to those areas of the Washington metropolitan region as are situate within their respective jurisdictions) will best facilitate the attainment of such objective of the coordinated

development of the areas of the Washington metropolitan region and coordinated management of their public affairs so as to contribute effectively to the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

(June 27, 1960, 74 Stat. 223, Pub. L. 86-527, § 3.)

Section references. — This section is referred to in §§ 2-1103 and 2-1105.

Prior Codifications. — 1981 Ed., § 1-2102. 1973 Ed., § 1-1302.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-1103. Priority projects.

The Congress further declares that, in carrying out the policy pursuant to § 2-1102 for the attainment of the objective established by § 2-1101, priority should be given to the solution, on a unified metropolitan basis, of the problems of water supply, sewage disposal, and water pollution and transportation.

(June 27, 1960, 74 Stat. 223, Pub. L. 86-527, § 4.)

Section references. — This section is referred to in § 2-1105.

Prior Codifications. — 1981 Ed., § 1-2103. 1973 Ed., § 1-1303.

§ 2-1104. Study of final report of Joint Committee on Washington Metropolitan Problems.

The Congress further declares that the officers, departments, agencies, and instrumentalities of the executive branch of the federal government and the Mayor of the District of Columbia and the other officers, agencies, and instrumentalities of the District of Columbia, and other agencies of government within the Washington metropolitan region are invited and encouraged to engage in an intensive study of the final report and recommendation of the Joint Committee on Washington Metropolitan Problems with a view to submitting to the Congress the specific recommendations of each of the agencies of government specified.

(June 27, 1960, 74 Stat. 223, Pub. L. 86-527, § 5.)

Section references. — This section is referred to in § 2-1105.

Prior Codifications. — 1981 Ed., § 1-2104. 1973 Ed., § 1-1304.

Change in Government. — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-1105. “Washington metropolitan region” defined.

As used in this chapter, the term “Washington metropolitan region” includes the District of Columbia, the Counties of Montgomery and Prince Georges in the State of Maryland, the Counties of Arlington and Fairfax and the Cities of Alexandria and Falls Church in the Commonwealth of Virginia.

(June 27, 1960, 74 Stat. 224, Pub. L. 86-527, § 6.)

Prior Codifications. — 1981 Ed., § 1-2105. 1973 Ed., § 1-1305.

Editor’s notes. — Because of the enactment of subchapter II of Chapter 22 of Title 1 subchapter IV of Chapter 12 of Title 2, 2001 Ed. by

D.C. Law 5-89, the preexisting text, including §§ 1-2201 through 1-2205 §§ 2-1201.01 through 2-1201.05, 2001 Ed., has been designated as subchapter I.

CHAPTER 11A. CHESAPEAKE REGIONAL OLYMPIC GAMES AUTHORITY.

Sec.

2-1131. Definitions.

2-1132. Creation of the Regional Authority.

2-1133. Regional Authority; composition and order of business.

2-1134. Compliance with local law.

Sec.

2-1135. Funding of the Regional Authority.

2-1136. Regional Authority oversight; additional powers.

2-1137. Indemnification.

2-1138. Commitments of Signatories.

§ 2-1131. Definitions.

For the purposes of this chapter, the term:

(1) “Bid Proposal” means the bid formally submitted by WBRC 2012 to the USOC on December 15, 2000.

(2) “Host City” means the entity that has been selected by the International Olympic Committee to host the 2012 Olympic Games.

(3) “International Olympic Committee” and “IOC” mean the International Olympic Committee, a body corporate under international law created by the Congress of Paris of 23rd June, 1894, and having perpetual succession.

(4) “Olympic Games” means the Olympic Games sponsored by and governed by the International Olympic Committee and any other educational, cultural, athletic, or sporting events related or preliminary thereto.

(5) “Organizing Committee for the Olympic Games” and “OCOG” mean the Committee formed by WBRC 2012 to organize and conduct the Olympic Games if WBRC 2012 is selected by the IOC as the Host City in 2005.

(6) “Regional Authority” and “Chesapeake Regional Olympic Games Authority” mean the instrumentality of the District of Columbia, the Commonwealth of Virginia, State of Maryland, and the City of Baltimore, which authority shall have the powers and duties set forth in this chapter.

(7) “Regional Authority Advisory Committee” means a body formed by the Regional Authority that shall be composed of representatives from each of the local jurisdictions substantially impacted by hosting the Olympic games in the region.

(8) “Signatory” means Maryland, Virginia, the City of Baltimore, or the District of Columbia.

(9) “United States Olympic Committee” and “USOC” mean the United States Olympic Committee, incorporated by Act of Congress on September 21, 1950, and having perpetual succession.

(10) “U.S. Candidate City” means the entity that has received the United States Olympic Committee’s endorsement to submit to the IOC the sole bid from the United States for the hosting of the 2012 Olympic Games.

(11) “WBRC 2012” means Washington/Baltimore Regional 2012 Coalition, a nonprofit corporation organized under the laws of the State of Maryland, and its successors.

(Feb. 13, 2002, D.C. Law 14-63, § 2, 48 DCR 10549.)

Temporary Addition of Section. — For temporary (225 day) addition of sections, see §§ 2 to 9 of the Chesapeake Regional Olympic

Games Authority Temporary Act of 2001 (D.C. Law 14-31, Oct. 13, 2001, law notification 48 DCR 9904).

Emergency legislation. — For temporary (90 day) addition of §§ 2-1121.01 to 2-1121.08, see §§ 2 to 9 of Chesapeake Regional Olympic Games Authority Emergency Act of 2001 (D.C. Act 14-75, June 7, 2001, 48 DCR 8399).

For temporary (90 day) addition of §§ 2-1121.01 to 2-1121.08, see §§ 2 to 9 of Chesapeake Regional Olympic Games Authority Legislative Review Emergency Act of 2001 (D.C. Act 14-112, August 3, 2001, 48 DCR 7639).

For temporary (90 day) addition of §§ 2-1121.01 to 2-1101.08, see §§ 2 to 9 of Chesapeake Regional Olympic Games Authority Congressional Review Emergency Act of 2001 (D.C. Act 14-138, October 23, 2001, 48 DCR 9920).

Legislative history of Law 14-63. — Law 14-63, the “Chesapeake Regional Olympic Games Authority Act of 2001”, was introduced in Council and assigned Bill No. 14-187, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on October 16, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 15, 2001, it was assigned Act No. 14-167 and transmitted to both Houses of Congress for its review. D.C. Law 14-63 became effective on February 13, 2001.

§ 2-1132. Creation of the Regional Authority.

(a) The Signatories hereby provide the mechanism for the creation and termination of the Chesapeake Regional Olympic Games Authority, which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, the State of Maryland, and the City of Baltimore, and shall have the powers and duties set forth herein, and those additional powers and duties conferred upon it by subsequent actions of the Signatories.

(b) The Regional Authority shall come into existence by the force of this chapter when and if, and only if, the IOC awards the 2012 Olympic Games in year 2005 to WBRC 2012, as the U.S. Candidate City and the official representative of the Maryland, Virginia, District of Columbia, and Baltimore region.

(c) The Regional Authority shall, if ever brought into existence, cease to exist by the force of this chapter on January 1, 2014, unless extended by substantially similar future legislation passed by each of the Signatories.

(d)(1) Until such time as the Regional Authority may be triggered into existence, the combined signatures of the Governors of Virginia and Maryland, and the Mayors of the District of Columbia and the City of Baltimore, on any and all documents necessary and appropriate to the pursuit of the 2012 Olympic Games shall be binding on future actions of the Regional Authority.

(2) For the purposes of this subsection:

(A) The above-referenced signatures may be on the same document, on separate but materially and substantially similar documents, or any combination thereof; and

(B) No individual signature shall be effective until such time as all 4 above-referenced signatures are obtained.

(Feb. 13, 2002, D.C. Law 14-63, § 3, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1133. Regional Authority; composition and order of business.

(a) The Regional Authority shall be composed of 11 voting members, as follows:

(1) The State of Maryland shall be entitled to 3 voting members, to be appointed by the Governor of Maryland.

(2) The Commonwealth of Virginia shall be entitled to 3 voting members, to be appointed by the Governor of Virginia.

(3) The District of Columbia shall be entitled to 3 voting members, to be appointed by the Mayor of the District of Columbia.

(4) The City of Baltimore shall be entitled to one voting member, to be appointed by the Mayor of the City of Baltimore.

(5) The Washington/Baltimore Regional 2012 Coalition, a nonprofit corporation created for the sole purpose of bringing the Olympic Games to the region, or the OCOG, shall be entitled to one voting member, to be appointed in a manner consistent with its usual procedure.

(b) Reasonable efforts shall be made to ensure that appointments of voting members and advisory members appointed under subsection (g) of this section:

(1) Are residents of the regional community with relevant and useful experience, and with sufficient time to devote to the duties of the Regional Authority, to help facilitate the successful hosting of the Olympic Games;

(2) Reflect the geographical diversity inherent in the regional nature of WBRC 2012's bid proposal; and

(3) Reflect the cultural, ethnic, and racial diversity inherent in the Chesapeake region.

(c) Voting members shall not be financially compensated for their service on the Regional Authority; such service shall be considered voluntary. Voting members may be reimbursed by the Regional Authority for normal and customary expenses incurred in the performance of their duties.

(d) The terms of the voting members of the Regional Authority shall be as follows:

(1) The initial terms of office of the voting members shall be 2 years from the date of appointment, and all subsequent terms of office of the voting members shall be for 2 years. Each voting member shall hold office until his or her successor shall be appointed and duly qualified. A voting member of the Regional Authority may succeed himself or herself.

(2) All vacancies in the membership of the voting members of the Regional Authority, whether caused by expiration of term of office, death, resignation, or otherwise, shall be filled in the same manner as that membership was originally filled. The term of any voting member appointed to fill an unexpired term shall be the term of the voting member he or she replaced.

(3) The Regional Authority shall elect from its membership a chair, a vice chair, a secretary, and a treasurer. Such officers shall serve for such terms as shall be prescribed by resolution of the Regional Authority or until their successors are elected and qualified. No voting member of the Regional Authority shall hold more than one office on the Regional Authority.

(e) The Regional Authority shall hold meetings in accordance with the following:

(1) Regular meetings of the Regional Authority shall be held on such dates and at such time and place as shall be fixed by resolution of the Regional Authority.

(2) Special meetings of the Regional Authority may be called by resolution of the Regional Authority, by the chairman or vice chairman, or upon the written request of at least 3 voting members of the Regional Authority.

(3) Written notice of all meetings shall be delivered to each voting member not less than 3 days prior to the date of such meeting in the case of regular meetings and not less than 24 hours in the case of special meetings.

(4) Each voting member should make all reasonable efforts to be in attendance at meetings called by the Regional Authority.

(5) A majority of the voting members of the Regional Authority in office shall constitute a quorum. A majority of the quorum is empowered to exercise all the rights and perform all the duties of the Regional Authority and no vacancy on the Regional Authority shall impair the right of the majority to act. If at a meeting there is less than a quorum present, a majority of those present may adjourn the meeting to a fixed time and place, and notice of the time and place shall be given in accordance with paragraph (3) of this subsection; provided, that if this notice period cannot reasonably be complied with, the notice, if any, of the adjourned meeting shall be given as is reasonably practical.

(6) The Regional Authority shall establish rules and regulations for its own governance not inconsistent with this chapter.

(f) The Regional Authority shall:

(1) Make provision for a system of financial accounting and controls, audits, and reports. All accounting systems and records, auditing procedures and standards, and financial reporting shall conform to generally accepted principles of governmental accounting. All financial records, reports, and documents of the Regional Authority shall be public records and open to public inspection under reasonable regulations prescribed by the Regional Authority; and

(2) Adopt a fiscal year, establish a system of accounting and financial control, designate the necessary funds for complete accountability, and specify the basis of accounting for each such fund. The Regional Authority shall cause to be prepared a financial report on all funds at least quarterly and a comprehensive report on the fiscal operations and conditions of the Regional Authority annually.

(g) The Regional Authority shall form a Regional Authority Advisory Committee, which shall be comprised of representatives from each of the local jurisdictions substantially impacted by hosting the Olympic Games in the region, in a manner to be determined by the Regional Authority.

(Feb. 13, 2002, D.C. Law 14-63, § 4, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1134. Compliance with local law.

The Regional Authority shall make every effort to comply with the local laws of each of the Signatories regarding disclosure, appointment, and open meetings.

(Feb. 13, 2002, D.C. Law 14-63, § 5, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1135. Funding of the Regional Authority.

(a) The OCOG shall provide reasonable funds for the operation of the Regional Authority and the conduct of its business in accordance with the provisions of this chapter.

(b) For the purposes of this section, payment of any insurance premiums incurred by the Regional Authority under the authority granted to it by § 2-1136 shall not be considered operations funds referred to in subsection (a) of this section. The OCOG shall pay only such insurance premiums as are reasonable.

(c) The OCOG shall not be responsible for any financial liability that the Regional Authority may incur under § 2-1136.

(d) The Regional Authority shall submit to the OCOG a planned budget for the Regional Authority's next fiscal year, adopted consistent with § 2-1133, no less than 90 days before the beginning of the next fiscal year.

(Feb. 13, 2002, D.C. Law 14-63, § 6, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1136. Regional Authority oversight; additional powers.

(a) The Regional Authority, in recognition of its oversight responsibility over the OCOG, shall have access to:

- (1) The quarterly financial statements of the OCOG;
- (2) The annual business plans of the OCOG; and
- (3) All other OCOG documents necessary to achieve its oversight purpose.

(b) The Regional Authority shall have the power to enforce OCOG budgetary and planning changes when:

(1) Review by the Regional Authority of the OCOG financial statements, annual business plans, or other documents contemplated in subsection (a) of this section suggests:

(A) Economic shortfalls that would possibly trigger the Regional Authority's liability outlined in subsection (c); or

(B) The OCOG will fail to host the Olympic Games in a manner that would satisfy the requirements of the USOC or the IOC; and

- (2) Such changes are supported by a majority of the voting members of the

Regional Authority, notwithstanding the quorum requirements of § 2-1133(e)(5).

(c) The Regional Authority, in recognition of its duties as overseer of the OCOG, shall:

(1) Be bound by the terms of, cause the OCOG to perform, and guaranty performance of, OCOG's obligations under all documents necessary and appropriate to the pursuit of the Olympic Games;

(2) Certify the OCOG's performance of such obligations as requested by the USOC from time to time;

(3) Accept liability for the OCOG, if any, as far as required by all documents necessary and appropriate to the pursuit and hosting of the Olympic Games; provided, that:

(A) With regard to third-party tort liabilities, the OCOG will indemnify the District of Columbia against any and all such claims and provide that the District of Columbia be named as an additional insured on all appropriate insurance policies. Nothing contained herein shall in any way modify the District of Columbia's existing liability limitation; and

(B) With regard to all other liabilities arising out of this paragraph, the OCOG agrees to hold the District of Columbia harmless and indemnify the District of Columbia for any such losses. If the District of Columbia incurs any liabilities, these shall count against the total limit (or cap) on the District of Columbia's liabilities as set forth in § 2-1137(a)(3).

(4) Accept liability, if any, with the OCOG, for any financial deficit of the OCOG or the Olympic Games, as follows:

(A) The OCOG shall be responsible for any amount up to \$25 million;

(B) The Regional Authority shall be liable for any amount in excess of \$25 million, but not to exceed an additional \$175 million; and

(C) Except as set forth in existing applicable law, the OCOG and the Regional Authority shall not be limited in their choice of funding sources for covering possible financial losses, including the purchase of insurance, if commercially available and reasonably priced.

(d) The Regional Authority, in its financial oversight and safeguard role, shall ensure:

(1) No legacy programs, funds, or accounts shall be funded from any of the proceeds of the 2012 Olympic Games until all budgetary and operational financial obligations of the OCOG and the Regional Authority for hosting the Olympic Games are first met; and

(2) No liability for any financial deficit resulting from the 2012 Olympic Games shall accrue to the Regional Authority (or the Signatories) until all budgetary or operational financial surpluses of the OCOG, if any, are applied to all outstanding financial obligations of OCOG and the Regional Authority, if any, that accrued exclusively in connection with hosting the Olympic Games.

(e) The Regional Authority, to facilitate its oversight responsibility over the OCOG, shall have the additional powers:

(1) To sue and be sued in contract and in tort;

(2) To complain and defend in all courts;

(3) To implead and be impleaded;

- (4) To enter into contracts;
- (5) To hire appropriate staff; and
- (6) Any additional powers granted to it by act.

(Feb. 13, 2002, D.C. Law 14-63, § 7, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1137. Indemnification.

(a) Any liability incurred by the Regional Authority, not covered by insurance under § 2-1136(c)(4)(C), shall be further indemnified by the Signatories, in proportion to the relative economic benefit currently expected to accrue to each Signatory from hosting the Olympic Games, as follows:

- (1) The State of Maryland shall be liable for 53%;
- (2) The Commonwealth of Virginia shall be liable for 19%; and
- (3) The District of Columbia shall be liable for 28%.

(b) Each of the Signatories may provide for its share of any possible liability in any manner it may choose, as befits each Signatory's independent commitment.

(Feb. 13, 2002, D.C. Law 14-63, § 8, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

§ 2-1138. Commitments of Signatories.

(a) As appropriate to its individual jurisdiction and specific role in hosting the 2012 Olympic Games, each Signatory shall:

- (1) Ensure that necessary facilities are built and transportation infrastructure improvements take place, including government funding as appropriate;
- (2) Provide access to existing state/city-controlled facilities and other important resources as specified in WBRC 2012's bid proposal in accordance with applicable law and contractual obligations; and
- (3) Provide adequate security, fire protection, and other government related services at a reasonable cost to ensure for the safe and orderly operation of the Olympic Games.

(b) Notwithstanding any other provision of this chapter, any financial obligation or liability that the District of Columbia may incur by virtue of this chapter shall be subject to the availability of appropriations authorized by Congress at the time the obligation or liability is created.

(c) Notwithstanding any other provision of this chapter, any provision of this chapter that grants the Regional Authority any authority, power, duty, or function that conflicts with Chapter 2 of Title 1 shall be approved by Congress prior to the exercise of that authority, power, duty, or function by the Regional Authority.

(Feb. 13, 2002, D.C. Law 14-63, § 9, 48 DCR 10549.)

Legislative history of Law 14-63. — For Law 14-63, see notes following § 2-1131.

CHAPTER 12. BUSINESS AND ECONOMIC DEVELOPMENT.

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Transfer of Assets and Liabilities

2-1225.11. Transfer of NCRC assets and liabilities.

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PART C

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2-1225.21. [Repealed].

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2-1225.31. Urban renewal plans.

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Subchapter XIV. Economic Development Along the Anacostia Waterfront

PART A

Economic Development Along the Anacostia Waterfront

2-1226.01. Implementation of the Framework Plan.

2-1226.02. Provisions applicable to development projects located within the Anacostia Waterfront Development Zone.

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PART B

Anacostia Waterfront Environmental Standards

2-1226.31. Short title.

2-1226.32. Definitions.

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2-1226.38. Site planning and preservation standards.

2-1226.39. Exemptions to requirements.

2-1226.40. Relationship to Green Building Act, the Water Pollution Control Act, and other laws.

2-1226.41. Rulemaking.

*Subchapter I. Office of Business and Economic Development.***§ 2-1201.01. Findings; purpose.**

(a) The Council finds that:

(1) There exists in the District of Columbia a substantial problem of chronic unemployment and underemployment;

(2) In the last 2 decades, growth in employment, new business development, and commercial development in the District of Columbia has failed to keep pace with employment growth and commercial expansion in neighboring jurisdictions;

(3) During the same period, the District has experienced a substantial loss in retail businesses and other commercial enterprises which contributed significantly to local employment and the city's tax base;

(4) Expansion of the tax base in the District of Columbia has, in recent years, lagged significantly behind the rate of inflation and the rate of increase in District of Columbia government expenditures;

(5) Substantial expansion of the tax base is necessary to help avert future governmental fiscal crises, prevent ever-increasing individual business and professional tax levels, and assure provision of necessary public services;

(6) The District of Columbia government lacks an organized capacity or comprehensive strategy to assess its economic needs, encourage business retention, attract commercial enterprises, or otherwise promote and stimulate economic growth;

(7) The absence of such a capacity and strategy has been a significant factor in the District's inability to compete with neighboring jurisdictions in the retention of existing businesses and the attraction of new enterprises;

(8) Direct and continuing active participation of all levels of the business community is essential to carrying out the objectives of this subchapter.

(b) The purposes of this subchapter are:

(1) To establish an office with ongoing responsibility to assess the economic needs of the City; stimulate new employment opportunities; assist existing businesses; promote the City as a location for businesses and investment to priority City locations in accordance with the City's comprehensive plan and its economic development objectives; and

(2) To centralize the economic development functions in the District of Columbia government in a single agency devoted solely to these tasks.

(Mar. 29, 1977, D.C. Law 1-97, § 2, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2201. 1973 Ed., § 1-1351.

Legislative history of Law 1-97. — Law 1-97 was introduced in Council and assigned Bill No. 1-260, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first and second readings on September 15, 1976 and October 12, 1976, respectively. Signed by the Mayor on November 19, 1976, it was assigned Act No.

1-179 and transmitted to both Houses of Congress for its review.

Mayor's Orders. — Establishment of State Job Training Coordinating Council: See Mayor's Order 89-72, April 5, 1989.

Establishment of District of Columbia Private Industry Council: See Mayor's Order 89-73, April 5, 1989.

Editor's notes. — Because of the codification of D.C. Law 5-89 as subchapter II of

Chapter 22 of Title 1 subchapter IV of Chapter 12 of Title 2, 2001 Ed., and the designation of the preexisting text as subchapter I, “subchap-

ter” has been substituted for “chapter” in paragraph (8) of subsection (a) and in the introductory language of subsection (b) of this section.

§ 2-1201.02. Establishment; purposes. [Omitted].

Omitted.

(Mar. 29, 1977, D.C. Law 1-97, § 3, 23 DCR 9532b; Oct. 17, 1981, D.C. Law 4-42, § 9(a), 28 DCR 3425.)

Cross references. — Administration, merit system, “subordinate agency” defined to include various offices, departments, and commissions, see § 1-603.01.

Prior Codifications. — 1981 Ed., § 1-2202. 1973 Ed., § 1-1352.

Transfer of Functions. — The functions of the Office of Business and Economic Development and the Office of International Business were transferred to the jurisdiction and control of the Office of Economic Development by Reorganization Plan No. 4 of 1993, approved October 7, 1993.

Mayor’s Orders. — Establishment of State Job Training Coordinating Council: See Mayor’s Order 89-72, April 5, 1989.

Establishment of District of Columbia Private Industry Council: See Mayor’s Order 89-73, April 5, 1989.

Editor’s notes. — Office of Business and Economic Development abolished: Section 301 of D.C. Law 10-11 and § 301 of D.C. Law 10-25 provided that in accordance with § 404(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 787; D.C. Code § 1-227(b) § 1-204.04(b), 2001 Ed.), the Office of Business and Economic Development, established pursuant to § 3 of the District of Columbia Business and Economic Development Act of 1976, effective March 29, 1977 (D.C. Law 1-97; D.C. Code § 1-2202 § 2-1201.02, 2001 Ed.), is abolished and all capital project authority and financial balances of the Office of Business and Economic Development shall be transferred to the Office of the Deputy Mayor for

Economic Development, established pursuant to Reorganization Plan No. 3 of 1975, effective July 3, 1975 (21 DCR 2793; D.C. Code Vol. 1, 1981 Ed.).

Section 601(b)(6) of D.C. Law 10-11 provided that § 301 shall apply as of October 1, 1993.

Section 601(b)(6) of D.C. Law 10-25 provided that § 301 shall apply as of October 1, 1993.

Transfer of powers, duties, and responsibilities from Office of Economic Development: Section 30(d) of D.C. Law 12-144 provided for the transfer of the powers, duties, and responsibilities of the Office of Economic Development to the Board of Directors of the National Capital Revitalization Corporation, and for the abolition of the Office of Economic Development. Office of Business and Economic Development abolished: Section 701(b) of D.C. Law 10-11 provided that the act shall expire on the 225th day of its having taken effect. International Business Program abolished: Pursuant to Reorganization Plan No. 7 of 1996, effective December 13, 1996, the International Business Program in the Office of Economic Development was abolished and its functions transferred to the Office of International Affairs which was created as an independent subordinate agency within the Executive Office of the Mayor. Additionally, Reorganization Plan No. 7 of 1996 transferred to the Office of International Affairs, 2 International Business Program positions, associated property, records and unexpended balances of appropriations, and other funds, if any, that related to the positions and functions assigned to the Office of International Affairs.

§ 2-1201.03. Function.

(a) The Office shall give priority to activities, including economic research and analysis, to stimulate employment, promote tourism and business retention, and to attract new commercial and industrial enterprises. Long range priorities shall include development and implementation with the Office of the Assistant City Administrator for Planning and Development of an economic development plan for the District of Columbia.

(b) Pursuant to these priorities, the Office shall:

(1) Initiate and implement an ongoing economic and commercial survey

including data to monitor business migration, business and commercial expansion, business opportunities, manpower availability, manpower needs, and other factors relevant to promotion of economic development;

(2) Assist businessmen and developers in securing research data needed for feasibility and market studies;

(3) Initiate and implement programs aimed at stimulating employment opportunities in the District of Columbia, retaining existing businesses in the District, and attracting new commercial and industrial enterprises to the District, as well as, locating and encouraging investors for these enterprises;

(4) Develop and support programs to ensure local, small, and disadvantaged business development and participation in public and private economic development activities;

(5) Coordinate the economic development functions of other District of Columbia offices and departments;

(6) Coordinate economic development activities and projects within the District of Columbia government pursuant to the priorities established in the comprehensive plan and through other actions taken by the District of Columbia government;

(7) Act as ongoing District of Columbia liaison with the business and commercial community and as a vehicle to assist existing businesses in their procedural relationships with the District government, including, but not limited to, the expediting of administrative processes, such as approval of necessary permits, zoning actions, street closings, and other relevant District government administrative actions;

(8) Serve as liaison with pertinent federal government agencies and conduit for federal economic development funding;

(9) Stimulate development or expansion of neighborhood commercial facilities and centers;

(10) Develop financial and technical assistance programs;

(11) Initiate and stimulate public investment as a catalyst to private investment in commercial and industrial enterprises otherwise unavailable to the District of Columbia; and

(12) Recommend various types of commercial industrial development, incentives appropriate for certain development projects.

(c) Basic research and statistical programs would be undertaken in the following areas:

(1) Land use studies of urban renewal, housing, and industrial sites, with emphasis on the disposition of idle industrial land, factories, and commercial properties;

(2) Taxes, including such matters as determining new areas for new revenue for the City and possible tax incentives to encourage development; an examination of the effect of the District tax structure on certain industries; assessing the comparability of the tax structure;

(3) An examination of the District government powers, organization, and practices as they affect economic development; and

(4) Special industry problems, including the District's mature and declining industries.

(Mar. 29, 1977, D.C. Law 1-97, § 4, 23 DCR 9532b; Apr. 7, 2006, D.C. Law 16-91, § 136, 52 DCR 10637.)

Section references. — This section is referred to in § 2-1201.04.

Prior Codifications. — 1981 Ed., § 1-2203. 1973 Ed., § 1-1353.

Effect of amendments. — D.C. Law 16-91, in par. (b)(4), substituted “local, small, and disadvantaged business development and participation” for “minority business development and minority participation”.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Legislative history of Law 1-97. — For legislative history of D.C. Law 1-97, see Historical and Statutory Notes following § 2-1201.01.

Transfer of Functions. — See Historical and Statutory Notes following § 2-1201.02.

Mayor's Orders. — Establishment of State Job Training Coordinating Council: See Mayor's Order 89-72, April 5, 1989.

Establishment of District of Columbia Private Industry Council: See Mayor's Order 89-73, April 5, 1989.

Editor's notes. — Office of Tourism and Promotions: Pursuant to Reorganization Plan No. 2 of 1992, effective October 1, 1992, the Office of Tourism and Promotions (“office”) is hereby established in the Executive Branch of the Government under the Deputy Mayor for Economic Development (DMED). The Office shall be supervised and administered by a Director who shall be appointed by the Mayor to a position in the Executive Service pursuant to Title X of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, §§ 1-611.1 and 1-611.2 § 1-610.01 and 1-610.02, 2001 Ed., and subject to the advice and consent of the Council. The Mayor's Special Assistant for Tourism shall be the Acting Director pending confirmation by the Council.

Office of Business and Economic Development abolished: See Historical and Statutory Notes following § 2-1201.02.

International Business Program abolished: See Historical and Statutory Notes following § 2-1201.02.

§ 2-1201.04. Executive Director.

(a) The Office shall be headed by an Executive Director (hereinafter in this subchapter referred to as the “Director”), who shall be appointed by the Mayor. The Director shall devote his full time to the duties of his Office, and shall appoint qualified staff including a “Business Ombudsman” charged primarily with the implementation of the functions provided in § 2-1201.03. The annual compensation of the Director shall be determined in accordance with Chapter 51 of Title 5, United States Code (relating to the classification of government employees and related matters), but shall be no less than a GS-16, step 1 or equivalent compensation pursuant to the provisions of subchapter XI of Chapter 6 of Title 1.

(b) In order to best carry out his duties and responsibilities and to serve the people of the District in the promotion of business economic development, the Director may engage in programs and projects jointly with a private person, firm, corporation, or association, and may enter into contracts under terms to be mutually agreed upon to carry out such programs and projects not including acquisition of land or buildings. Such contracts may be negotiated and shall not be subject to the provisions of § 2-225.05 [repealed], insofar as such provisions relate to competitive bidding.

(Mar. 29, 1977, D.C. Law 1-97, § 5, 23 DCR 9532b; Mar. 3, 1979, D.C. Law 2-139, § 3205(x), 25 DCR 5740.)

Cross references. — Effective date of this section, see § 1-636.02.

Prior Codifications. — 1981 Ed., § 1-2204. 1973 Ed., § 1-1354.

Legislative history of Law 1-97. — For legislative history of D.C. Law 1-97, see Historical and Statutory Notes following § 2-1201.01.

Legislative history of Law 2-139. — Law

2-139 was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

References in text. — “GS-16, step 1”, referred to in subsection (a), is contained in the General Schedule which is set out under § 5332 of Title 5, United States Code.

Section 2-225.05, referred to in subsection (b), was repealed by D.C. Law 11-259, § 405, 44 DCR 1423, effective April 12, 1997.

Transfer of Functions. — See Historical and Statutory Notes following § 2-1201.02.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 7-173, the “Supermarket Tax Incentive Amendment Act of 1988”, see Mayor’s Order 89-84, April 24, 1989.

Editor’s notes. — Because of the codification of D.C. Law 5-89 as subchapter II of Chapter 22 of Title 1 subchapter IV of Chapter 12 of Title 2, 2001 Ed., and the designation of the preexisting text as subchapter I, “subchapter” has been substituted for “chapter” near the beginning of the first sentence of subsection (a).

Office of Business and Economic Development abolished: See Historical and Statutory Notes following § 2-1201.02.

§ 2-1201.05. Funding.

The Office shall be funded by a variety of sources currently available or potentially available in the future, including, but not limited to, federal loans and grant funds, community development block grant funds, District of Columbia government appropriated or borrowed funds, and private endowments. Sources of funding for the Office shall include no less than \$300,000 in community development block grant funds conditionally approved by the United States Department of Housing and Urban Development for business and economic development programs, pursuant to the Department’s approval on June 24, 1975 of the District of Columbia “Application for Federal Assistance for a Community Development Block Grant Program— 1975.”

(Mar. 29, 1977, D.C. Law 1-97, § 6, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2205. 1973 Ed., § 1-1355.

Legislative history of Law 1-97. — For legislative history of D.C. Law 1-97, see Historical and Statutory Notes following § 2-1201.01.

Legislative history of Law 8-159. — Law 8-159 was introduced in Council and assigned Bill No. 8-579. The Bill was adopted on first and second readings on May 15, 1990, and May 29, 1990, respectively. Approved without the signature of the Mayor on June 20, 1990, it was assigned Act No. 8-221 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-73. — Law 9-73 was introduced in Council and assigned Bill No. 9-352. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-125 and transmitted to both Houses of Congress for its review.

Transfer of Functions. — See Historical and Statutory Notes following § 2-1201.02.

Editor’s notes. — Office of Business and Economic Development abolished: See Historical and Statutory Notes following § 2-1201.02.

Subchapter II. Economic Development Liaison Office.

§ 2-1203.01. Establishment of the Economic Development Liaison Office.

(a) In accordance with § 1-204.04(b), there is hereby established in the Executive Branch of the government of the District of Columbia an Economic Development Liaison Office, to be headed by an Assistant City Administrator for Economic Development, who shall serve as liaison between the Mayor, the City Administrator, the Chief Financial Officer, the National Capital Revital-

ization Corporation, hospitality industry organizations, and economic development policy groups.

(b) The Economic Development Liaison Office shall give priority to assisting activities that foster economic growth and employment opportunities in the District by retaining, expanding, and attracting business through strategic neighborhood revitalization policies and actions to remove blight and facilitating opportunities for commercial and human capital development consistent with the economic, social, housing, and employment needs of residents and citizens of the District.

(Mar. 26, 1999, D.C. Law 12-175, § 1832, 45 DCR 7193.)

Prior Codifications. — 1981 Ed., § 1-2207.1.

Temporary Addition of Section. — For temporary (225 day) amendment of section, see § 2 of the Authorization of the Spending of the Commercial Trust Fund Temporary Act of 2003 (D.C. Law 15-75, Mar. 10, 2004, law notification 51 DCR 3367).

Emergency legislation. — For temporary addition of §§ 1-2207.1 through 1-2207.3 1981 Ed., see §§ 1432-1434 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and §§ 1432-1434 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) addition of Chapter 1-A 1981 Ed., see §§ 1432 to 1434 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

For temporary (90 day) authority of the Mayor to make grants from the Commercial Trust Fund, see § 2 of Authorization of the Spending of the Commercial Trust Fund Emergency Act of 2003 (D.C. Act 15-186, October 24, 2003, 50 DCR 9806).

Legislative history of Law 12-175. — Law 12-175, the “Fiscal Year 1999 Budget Support Act of 1998,” was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

Short title. — Section 220 of D.C. Law 13-38 provided: “This subtitle may be cited as the ‘Office of Local Business Development Establishment Act of 1999.’”

Mayor’s Orders. — Establishment—Office of Planning and Economic Development, see Mayor’s Order 99-62, April 9, 1999 (46 DCR 4224).

Editor’s notes. — Application of Law 12-175: Section 1836 of D.C. Law 12-175 provided that this subchapter shall apply as of October 1, 1998.

Establishment of the Economic Development Liaison Office: Section 1831 of D.C. Law 12-175 provided this subchapter may be cited as the “Economic Development Liaison Office Establishment Act of 1998.”

§ 2-1203.02. Functions.

The Economic Development Liaison Office shall perform the following functions:

(1) Develop and support programs to ensure local business development and the participation of small and disadvantaged businesses in public and private economic development activities;

(2) Assist businesses in their procedural relationships with the District government, including, but not limited to, the expediting of administrative processes, such as approval of necessary permits, zoning actions, street closings, and other relevant District administrative actions;

(3) Assist the Executive in the administration and supervision of the Office of Planning;

(4) Assist the Executive in the administration and supervision of the Office of Banking and Financial Institutions;

(5) Assist the Executive in the administration and supervision of the District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21;

(6) Assist the Executive in the administration and supervision of the Office of Motion Pictures and Television Development;

(7) Assist the Executive in the coordination of activities of the Zoning Commission with other economic development activities of the District government;

(8) Assist the Executive and the Chief Financial Officer in the transfer payment of all taxes collected on behalf of business improvement districts;

(9) Assist the Executive in the coordination of activities between the Executive and the Department of Housing and Community Development, the National Capital Revitalization Corporation, the President of the United States District of Columbia Task Force, the Washington Convention and Sports Authority, the Washington Convention and Visitors Association, the Hotel Association of Washington, the Restaurant Association of Washington, the D.C. Committee to Promote Washington, the D.C. Chamber of Commerce, the D.C. Building Industries Association, the Federal City Council, and the Committee of 100 on the Federal City; and

(10) With appropriated funds, distribute the one-time grant of \$13.5 million to the Canal Park Development Association for construction of Canal Park, issue one-time grants in accordance with section 8002(h) of the Fiscal Year 2009 Budget Support Act of 2008, effective August 16, 2008 (D.C. Law 17-219; 55 DCR 7598), and issue grants or loans as may be necessary to implement projects that are part of the New Communities Initiative; provided, that any grant issued pursuant to this paragraph shall constitute an agreement making grants-in-aid for the purposes of Unit A of Chapter 3 of this title.

(Mar. 26, 1999, D.C. Law 12-175, § 1833, 45 DCR 7193; Apr. 7, 2006, D.C. Law 16-91, § 137, 52 DCR 10637; Aug. 16, 2008, D.C. Law 17-219, § 2005, 55 DCR 7598; Mar. 3, 2010, D.C. Law 18-111, §§ 2082(e), 2251, 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 1-2207.2.

Effect of amendments. — D.C. Law 16-91, in par. (5), substituted “District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21” for “Office of Local Business Opportunity Administration”.

D.C. Law 17-219, in par. (8), deleted “and” from the end; in par. (9), substituted “; and” for a period at the end; and added par. (10).

D.C. Law 18-111, in par. (9), substituted “Washington Convention and Sports Authority” for “Washington Convention Center Authority”; and, in par. (10), substituted “issue grants or loans as may be necessary to implement projects that are part of the New Communities Initiative” for “issue grants as may be neces-

sary to implement only the human capital projects that are part of the New Communities Initiative”.

Emergency legislation. — For temporary addition of §§ 1-2207.1 through 1-2207.3 1981 Ed., see note to § 2-1203.01.

For temporary (90-day) addition of Chapter 1-A 1981 Ed., see notes following § 2-1203.01.

For temporary (90 day) amendment of section, see § 3 of July Other-Type Supplemental Appropriations Approval and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-106, July 27, 2007, 54 DCR 8217).

For temporary (90 day) amendment of section, see § 2082(e) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2251

of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see §§ 2082(e), 2251 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 12-175. — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 2-1203.01.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Short title. — Short title: Section 2004 of D.C. Law 17-219 provided that subtitle B of title II of the act may be cited as the “Continuation of Economic Development Grant Authority Amendment Act of 2008”.

Short title: Section 2250 of D.C. Law 18-111 provided that subtitle Z of title II of the act may be cited as the “New Communities Financial Assistance Amendment Act of 2009”.

Editor’s notes. — Application of Law 12-175: See Historical and Statutory Notes following § 2-1203.01.

§ 2-1203.03. Transfer of functions; abolishment of the Office of Tourism and Promotions.

(a) All authority responsibilities, and functions assigned to the Office of Tourism and Promotions by Reorganization Plan No. 2 of 1992, effective October 1, 1992, including oversight responsibility for the D.C. Committee to Promote Washington and the Office of Motion Picture and Television Development, established by Mayor’s Order 79-218, dated September 14, 1979, are hereby transferred the Economic Development Liaison Office.

(b) The Office of Tourism and Promotions, established by Reorganization Plan No. 2 of 1992, effective January 6, 1993, is hereby abolished.

(Mar. 26, 1999, D.C. Law 12-175, § 1834, 45 DCR 7193.)

Prior Codifications. — 1981 Ed., § 1-2207.3.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 4 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

Emergency legislation. — For temporary addition of §§ 1-2207.1 through 1-2207.3 1981 Ed., see note to § 2-1203.01.

For temporary (90-day) addition of Chapter 1-A 1981 Ed., see notes following § 2-1203.01.

Legislative history of Law 12-175. — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 2-1203.01.

Mayor’s Orders. — Establishment—Task Force on Tourism, see Mayor’s Order 2001-148, October 3, 2001 (48 DCR 9524).

Editor’s notes. — Application of Law 12-175: See Historical and Statutory Notes following § 2-1203.01.

Subchapter III. Office of Local Business Development.

§ 2-1205.01. Establishment of the Office of Local Business Development. [Repealed].

Repealed.

(Oct. 20, 1999, D.C. Law 13-38, § 221, 46 DCR 6373; Apr. 7, 2006, D.C. Law 16-91, § 138, 53 DCR 10637.)

Emergency legislation. — For temporary (90-day) addition of section, see § 221 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

Legislative history of Law 13-38. — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 11, 1999, and June 22,

1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

Editor’s notes. — D.C. Law 13-38, Title II, § 227, provided: “Sec. 227. Applicability. This title shall apply as of October 1, 1999.” -Establishment-Task Force on the Impact of the Terrorist Attacks on District Small Business, see Mayor’s Order 2001-150, October 3, 2001 (48 DCR 9529).

§ 2-1205.02. Purpose. [Repealed].

Repealed.

(Oct. 20, 1999, D.C. Law 13-38, § 222, 46 DCR 6373; Apr. 7, 2006, D.C. Law 16-91, § 138, 53 DCR 10637.)

Emergency legislation. — For temporary (90-day) addition of section, see § 222 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1205.01.

§ 2-1205.03. Functions. [Repealed].

Repealed.

(Oct. 20, 1999, D.C. Law 13-38, § 223, 46 DCR 6373; Oct. 4, 2000, D.C. Law 13-169, § 4, 47 DCR 5846; Apr. 7, 2006, D.C. Law 16-91, § 138, 53 DCR 10637.)

Emergency legislation. — For temporary (90-day) addition of section, see § 223 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90-day) amendment of section, see § 2(b) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1205.01.

Legislative history of Law 13-169. — Law 13-169, the “Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-241, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on April 4, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-373 and transmitted to both Houses of Congress for its review. D.C. Law 13-169 became effective on October 4, 2000.

§ 2-1205.04. Transfers. [Repealed].

Repealed.

(Oct. 20, 1999, D.C. Law 13-38, § 224, 46 DCR 6373; Apr. 7, 2006, D.C. Law 16-91, § 138, 53 DCR 10637.)

Cross references. — Financial institutions, licensing of money lenders, “community development corporation” defined, see § 26-910.

Emergency legislation. — For temporary (90-day) addition of section, see § 224 of the Service Improvement and Fiscal Year 2000

Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1205.01.

Subchapter IV. Economic Development Finance Corporation.

§ 2-1207.01. Findings. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 2, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140.)

Prior Codifications. — 1981 Ed., § 1-2211.

Legislative history of Law 5-89. — Law 5-89, the “District of Columbia Economic Development Finance Corporation Act of 1984,” was introduced in Council and assigned Bill No. 5-41, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on April 10, 1984 and April 30, 1984, respectively. Signed by the Mayor on May 9, 1984, it was assigned Act No. 5-130 and transmitted to both Houses of Congress for its review.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Editor’s notes. — Transfer of powers, duties, and responsibilities from Board of Directors of Economic Development Finance Corporation: Section 30(b) of D.C. Law 12-144 provided for the transfer of the powers, duties, and responsibilities of the Board of Directors of the Economic Development Finance Corporation to the Board of Directors of the National Capital Revitalization Corporation, and for the abolition of the Board of Directors of the Economic Development Finance Corporation.

§ 2-1207.02. Definitions. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 33, 31 DCR 2514; Mar. 21, 1995, D.C. Law 10-236, § 5(a), 42 DCR 33; Sept. 11, 1998, D.C. Law 12-144, § 31(b)(1), 45 DCR 3747; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2212.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 10-236. — Law 10-236, the “Contractors Guarantee Association Act of 1994,” was introduced in Council and assigned Bill No. 10-535, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-379 and transmitted to both Houses of Congress for its review. D.C. Law 10-236 became effective on March 21, 1995.

Legislative history of Law 12-144. — Law 12-144, the “National Capital Revitalization Corporation Act of 1998,” was introduced in Council and assigned Bill No. 12-514, which was referred to the Committee on Economic

Development. The Bill was adopted on first and second readings on March 3, 1998, and April 7, 1998, respectively. Signed by the Mayor on May 5, 1998, it was assigned Act No. 12-355 and transmitted to both Houses of Congress for its review. D.C. Law 12-144 became effective on September 11, 1998.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Effective date. — Section 33(b)(2) of D.C. Law 12-144 provided that § 31(b) shall take effect on the latter of: (A) the effective Dates of this act; or (B) the Dates determined by the Board, but not later than one year after the initial meeting of the Board.

Expiration of Law 10-236. — Section 6(b) of D.C. Law 10-236 provided that the act shall expire 3 years after having taken effect. D.C. Law 10-236, which had inserted paragraphs (3A), (7A), and (14A), became effective on March 21, 1995.

§ 2-1207.03. Economic Development Finance Corporation—Established; composition; appointment; term of office; vacancies; quorum; reimbursement for expenses. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 4, 31 DCR 2514; March 16, 1985, D.C. Law 5-186, § 2, 32 DCR 870; March 21, 1995, D.C. Law 10-236, § 5(b) (42 DCR 33), eff. March 21, 1995; D.C. Law 12-144, § 31(b)(2), 45 DCR 3747; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2213.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 5-186. — Law 5-186 was introduced in Council and assigned Bill No. 5-564, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-251 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-236. — For legislative history of D.C. Law 10-236, see Historical and Statutory Notes following § 2-1207.02.

Legislative history of Law 12-144. — For legislative history of D.C. Law 12-144, see Historical and Statutory Notes following § 2-1207.02.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Effective date. — Section 33(b)(2) of D.C. Law 12-144 provided that § 31(b) shall take effect on the latter of: (A) the effective Dates of this act; or (B) the Dates determined by the Board, but not later than one year after the initial meeting of the Board.

Expiration of Law 10-236. — Section 6(b) of D.C. Law 10-236 provided that the act shall expire 3 years after having taken effect. D.C. Law 10-236, which had amended (b), became effective on March 21, 1995.

Editor's notes. — Council determination of satisfactory commitment from private sources: Pursuant to Resolution 6-557, the "Economic Development Finance Corporation Commitment Resolution of 1986," effective February 25, 1986, the Council determined that there were satisfactory commitments from private sources to warrant the expenditure of public funds for the activities of the District of Columbia Economic Development Finance Corporation.

§ 2-1207.04. Economic Development Finance Corporation—President. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 5, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2214.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.05. Conflict of interest. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 6, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2215.
Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.06. Powers of Corporation. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 7, 31 DCR 2514; Mar. 21, 1995, D.C. Law 10-236, § 5(c), 42 DCR 33; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2216.
Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.
Legislative history of Law 10-236. — For legislative history of D.C. Law 10-236, see Historical and Statutory Notes following § 2-1207.02.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Expiration of Law 10-236. — Section 6(b) of D.C. Law 10-236 provided that the act shall expire 3 years after having taken effect. D.C. Law 10-236, which had inserted paragraph (21A), became effective on March 21, 1995.

§ 2-1207.06a. Business Purchase Assistance Program. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 7a, as added Dec. 21, 1985, D.C. Law 6-74, § 2, 32 DCR 6475; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2223.
Legislative history of Law 6-74. — Law 6-74, the “Fiscal Year 1986 Follow-Through Act of 1985,” was introduced in Council and assigned Bill No. 6-206, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on July 9, 1985 and October 8, 1985, respectively. Approved without the signature of the Mayor on October 29, 1985, it was assigned Act No. 6-98 and transmitted to both Houses of Congress for its review.

Editor’s notes. — Transfer of powers, duties, and responsibilities from Board of Directors of Economic Development Finance Corporation: Section 30(b) of D.C. Law 12-144 provided for the transfer of the powers, duties, and responsibilities of the Board of Directors of the Economic Development Finance Corporation to the Board of Directors of the National Capital Revitalization Corporation, and for the abolition of the Board of Directors of the Economic Development Finance Corporation.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.07. Capitalization. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 8, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2217.
Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.08. Project criteria. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 9, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2218.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.09. Rules and regulations; sponsorship of projects; application by for-profit subsidiary corporation. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 10, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2219.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Delegation of Authority. — Delegation of authority for District of Columbia Economic Development Finance Corporation Act of 1984, see Mayor's Order 84-169, September 27, 1984.

§ 2-1207.10. Biennial audit; report of audit; annual report of operation. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 11, 31 DCR 2514; Aug. 1, 1996, D.C. Law 11-152, § 401, 43 DCR 2978; Oct. 19, 2000, D.C. Law 13-172, § 2403, 47 DCR 6308; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140).)

Prior Codifications. — 1981 Ed., § 1-2220.

Emergency legislation. — For temporary (90-day) amendment of section, see § 2403 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 11-152. — Law 11-152, the "Fiscal Year 1996 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-655, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 28, 1996, it was assigned Act

No. 11-279 and transmitted to both Houses of Congress for its review. D. C. Law 11-152 became effective on August 1, 1996.

Legislative history of Law 13-172. — Law 13-172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-375 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.11. Minority Enterprise Small Business Investment Company and Small Business Investment Company. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 12, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140.)

Prior Codifications. — 1981 Ed., § 1-2221.

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

§ 2-1207.12. Title to property upon dissolution. [Repealed].

Repealed.

(June 29, 1984, D.C. Law 5-89, § 13, 31 DCR 2514; Oct. 19, 2002, D.C. Law 14-213, § 7, 49 DCR 8140.)

Prior Codifications. — 1981 Ed., § 1-2222.

Temporary Addition of Section. — For temporary (225 day) addition of sections, see §§ 2 to 6 of the Emergency Economic Assistance Temporary Act of 2001 (D.C. Law 14-74, on March 6, 2002, law notification 49 DCR 2808).

Emergency legislation. — For temporary (90 day) emergency economic assistance to transportation, tourism, restaurant, catering, and lodging industries, see §§ 2 to 6 of Emer-

gency Economic Assistance Emergency Act of 2001 (D.C. Act 14-163, November 2, 2001, 48 DCR 10404), see §§ 2 to 6 of Emergency Economic Assistance Congressional Review Emergency Act of 2002 (D.C. Act 14-260, January 30, 2002, 49 DCR 1433).

Legislative history of Law 5-89. — For legislative history of D.C. Law 5-89, see Historical and Statutory Notes following § 2-1207.01.

Legislative history of Law 14-213. — For Law 14-213, see notes following § 2-215.03.

Subchapter IV-A. Economic Development Budget Transparency.

§ 2-1208.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Chief Financial Officer” means the Office of the Chief Financial Officer established by § 1-204.24a.

(2) “Economic development incentive” or “incentive” means any expenditure of public funds by a granting body for the purpose of stimulating economic development within the District of Columbia, including any bond issuance—including pilot bond, tax increment financing bond, and revenue bond issuances, grant, loan, loan guarantee, fee waiver, land price subsidy, matching fund, tax abatement, tax exemption, tax credit, and any other tax expenditure.

(3) “Granting body” means an agency, board, office, instrumentality, or authority of the District government that provides or authorizes an economic development incentive.

(4) “Recipient” means any non-governmental person association, corporation, joint venture, partnership, or other entity that receives an economic development incentive.

(5) "Tax expenditure" shall include any loss of revenue to the Government of the District of Columbia that is attributable to an exemption, abatement, credit, reduction, or other exclusion under District tax law.

(6) "Unified Economic Development Budget Report" or "Report" means the document that the Chief Financial Officer is required to create under § 2-1208.02.

(Sept. 24, 2010, D.C. Law 18-223, § 2252, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 2252 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively.

Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Short title. — Short title: Section 2251 of D.C. Law 18-223 provided that subtitle V of title II of the act may be cited as the "Unified Economic Development Budget Transparency and Accountability Act of 2010".

§ 2-1208.02. Unified Economic Development Budget Report.

(a)(1) Not more than 3 months after the end of each fiscal year, the Chief Financial Officer shall compile and publish an annual Unified Economic Development Budget Report ("Report") with regard to the fiscal year just concluded. The report shall be produced in both printed and electronic form and shall be freely available in offices of all District agencies included in the report. A user-friendly electronic version of the report shall be posted on the Government of the District of Columbia's website in a central location that the public can easily locate.

(2) The comprehensive report shall provide the following information regarding the economic development incentives offered by the District:

(A) The name of each recipient receiving one or more economic development incentives with a combined total value equal to or greater than \$75,000;

(B) The dollar value of each economic development incentive received by each recipient; provided, that any economic development incentive received by a recipient with a value less than \$75,000 shall not be itemized; the Chief Financial Officer shall report an aggregate dollar amount of those expenditures and the total number of recipients aggregated;

(C) The aggregate dollar amounts for each type of incentive;

(D) The aggregate dollar amounts expended per ward;

(E) The aggregate number of companies, groups, or individuals receiving each type of economic development incentive; and

(F) The total cost of all economic development incentives appropriated by each granting body categorized by the granting body's name.

(b) The Chief Financial Officer shall submit annually, as part of the annual budget request to the Council, a single document estimating the costs of all economic development incentives for the fiscal year of the requested budget, including:

(1) The total cost to the District resulting from the proposed economic development incentives, including the costs for each category of proposed tax expenditures, and the amounts of proposed tax expenditures classified by ward; and

(2) The cost to the District of all proposed appropriated funds for economic development incentives by District agency, instrumentality, or public institution of higher education.

(c) Any granting authority agencies administering any economic development incentive shall cooperate and assist the Chief Financial Officer in the preparation of the Unified Economic Development Budget Report and all reporting requirements imposed by this subchapter.

(Sept. 24, 2010, D.C. Law 18-223, § 2253, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 2253 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-1208.01.

§ 2-1208.03. Performance measure requirements and strategic plan.

(a) For purposes of evaluating the success of economic development in the District of Columbia, the Mayor, before the start of each legislative period, shall prepare a strategic plan for economic development that reflects the District's economic priorities ("strategic plan"). At a minimum, the strategic plan shall:

(1) Establish realistic and verifiable goals for economic development, including concrete performance measures for the following economic priorities:

- (A) Job growth;
- (B) Business retention and expansion;
- (C) Business attraction;
- (D) An increased tax base; and
- (E) Increased usage and purchasing of local goods and services;

(2) Incorporate data obtained from the Unified Economic Development Budget Report required by § 2-1208.02 to assess the success of the District's usage of economic development incentives in the past fiscal year to accomplish economic priorities and to relate how economic development incentives proposed as part of the upcoming fiscal year's budget will assist the District in meeting its goals and performance measures for economic development;

(3) Identify a cohort of relevant comparable economic analyses, considering efforts by neighboring jurisdictions and across the nation as examples;

(4) Evaluate other economic development benchmarking;

(5) Identify and evaluate the strengths, weaknesses, and opportunities inherent in and available to the District economy as well as the mechanisms and leverage points where the District should invest additional resources to achieve the goals established in the strategic plan; and

(6) Recommend policy initiatives designed to improve the relative ability of the District to achieve the goals identified in the strategic plan.

(b) The Mayor shall publish the strategic plan in both printed and electronic form. The printed version shall be distributed to the Council and made freely available to the public at the Office of the Deputy Mayor of Planning and Economic Development. A user-friendly electronic version of the report shall also be posted on the Government of the District of Columbia's website in a central location that the public can easily locate.

(Sept. 24, 2010, D.C. Law 18-223, § 2254, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 2254 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-1208.01.

§ 2-1208.04. Freedom of information act disclosure.

All data collected and maintained as part of the reporting obligations imposed by this subchapter shall be fully subject to, and comply with, subchapter II of Chapter 5 of this title [§ 2-531 et seq.].

(Sept. 24, 2010, D.C. Law 18-223, § 2255, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 2255 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-1208.01.

Subchapter V. Business Incubator Facilitation.

§ 2-1209.01. Purposes.

In enacting this subchapter, the Council of the District of Columbia supports the following statutory purposes:

(1) To facilitate the establishment of 1 or more business incubators in the District of Columbia by offering the use of city-owned property, credit support for financing businesses in the incubator, and other incentives to ensure that tenant business costs for space and services are kept to a minimum; and

(2) To design business incubators to assist companies through the conceptual, start-up, and early growth stages of their businesses. The business incubator is not intended to serve merely as inexpensive quarters for established businesses.

(Dec. 12, 1985, D.C. Law 6-71, § 2, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2231.

Legislative history of Law 6-71. — Law 6-71, the “Business Incubator Facilitation Act of 1985,” was introduced in Council and assigned Bill No. 6-205, which was referred to the Committee on Housing and Economic Develop-

ment. The Bill was adopted on first and second readings on September 24, 1985 and October 8, 1985, respectively. Signed by the Mayor on October 18, 1985, it was assigned Act No. 6-95 and transmitted to both Houses of Congress for its review.

§ 2-1209.02. Definitions.

For the purposes of this subchapter, the term:

- (1) "Business incubator" means a building that provides low-cost space and services to eligible tenant businesses. The term "business incubator" does not mean a multi-tenant facility that offers space alone.
- (2) "Council" means the Council of the District of Columbia.
- (3) "District" means the District of Columbia.
- (4) "Mayor" means the Mayor of the District of Columbia.

(Dec. 12, 1985, D.C. Law 6-71, § 3, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2232. legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.
Legislative history of Law 6-71. — For

§ 2-1209.03. Eligibility criteria.

(a) The Mayor shall define eligibility criteria for business incubators receiving public support. These criteria shall be stated in terms of business and economic development objectives, including, but not limited to, consideration of the following recommendations:

(1) The Mayor shall rank the types of businesses that would be eligible tenants.

(2) The Mayor shall rank-order the District government's preferences in such a way that businesses with little job creation potential are ranked lower than those businesses which have more employment potential.

(3) The Mayor shall give priority to potential tenant businesses such as light industrial, research and development, and business services companies that are potential major contributors to job creation efforts in the District.

(b) To be an eligible tenant business for occupancy in a business incubator, a business shall be based and incorporated in the District, shall have its corporate headquarters and principal place of business located in the District, and shall not be a subsidiary of another business.

(Dec. 12, 1985, D.C. Law 6-71, § 4, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2233. legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.
Legislative history of Law 6-71. — For

§ 2-1209.04. Admissions policy.

(a)(1) The Mayor shall establish admissions criteria for occupancy in a business incubator.

(2) Admissions criteria may include, but not be limited to, factors such as the age, size, and financial status of the business.

(b) The Mayor shall establish screening and application procedures which will apply to all prospective tenant businesses.

(c) Submission of a business plan may be required for admission, especially for new-start businesses.

(d) Any business selected for occupancy in a business incubator shall

demonstrate a potential for success and an identified market for its goods or services.

(e) Any business selected for occupancy in a business incubator must contract with the District government to maintain its principal place of business within the District for a minimum of 10 years following its move from the business incubator.

(f) Each tenant business selected for occupancy in the business incubator shall be responsible for the cost of office renovations, maintenance, and, upon departure from the business incubator, for the cost of returning its incubator space to its original condition unless other arrangements are made in advance of departure with a new tenant business.

(g) The Mayor shall establish the minimum insurance requirements of any tenant business to insure against any future liability of the District government for the business operations of the tenant.

(Dec. 12, 1985, D.C. Law 6-71, § 5, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2234. legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.
Legislative history of Law 6-71. — For

§ 2-1209.05. Services.

(a) Selected basic services shall be included in the rent for the business incubator; other services shall be paid for on an as-used basis.

(b) The only free services shall be those ordinarily available free of charge from participating providers.

(c) Services available elsewhere shall not be duplicated; all existing management support and services programs in the District, including financial services, shall be utilized.

(d) Both public and private resources may be made available to tenant businesses.

(Dec. 12, 1985, D.C. Law 6-71, § 6, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2235. legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.
Legislative history of Law 6-71. — For

§ 2-1209.06. Mayor may contract for outside management.

The Mayor may contract with a for-profit or a nonprofit corporation or educational institution that can utilize its resources to provide management of the business incubator facility and its services, to provide business development assistance, and to coordinate financial assistance programs. The selection of a contractor for this purpose shall be subject to review by the Council's Committee on Economic Development.

(Dec. 12, 1985, D.C. Law 6-71, § 7, 32 DCR 6334; Apr. 12, 2000, D.C. Law 13-91, § 126(a), 47 DCR 520.)

Prior Codifications. — 1981 Ed., § 1-2236. deleted the former second sentence, which
Effect of amendments. — D.C. Law 13-91 read: "This contractor would implement the

recommendations of the Advisory Board established in § 1-2241. 1981 Ed. ", and in the second sentence, substituted "Economic Development" for "Housing and Economic Development ('HED Committee')".

Legislative history of Law 6-71. — For legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.

Legislative history of Law 13-91. — Law 13-91, the "Technical Amendments Act of 1999,"

was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

§ 2-1209.07. Priority to residents.

Priority shall be given to tenant businesses owned by persons who are residents of the District.

(Dec. 12, 1985, D.C. Law 6-71, § 8, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2237.
Legislative history of Law 6-71. — For

legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.

§ 2-1209.08. First source employment agreement required.

Tenant businesses chosen for occupancy in business incubators shall execute a first source employment agreement with the District government pursuant to § 2-219.03.

(Dec. 12, 1985, D.C. Law 6-71, § 9, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2238.
Legislative history of Law 6-71. — For

legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.

§ 2-1209.09. Maximum stay policy.

The Mayor shall devise a policy that encourages tenant businesses to leave the business incubators when a certain level of development is reached, but does not arbitrarily evict a tenant business at a crucial period in its development.

(Dec. 12, 1985, D.C. Law 6-71, § 10, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2239.
Legislative history of Law 6-71. — For

legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.

§ 2-1209.10. Location of business incubators.

The Mayor shall locate business incubators in areas in the District appropriate to the types of businesses targeted for occupancy, based on District-determined priorities, and shall seek sites which have the least prohibitive zoning in order to allow a range of uses.

(Dec. 12, 1985, D.C. Law 6-71, § 11, 32 DCR 6334.)

Prior Codifications. — 1981 Ed., § 1-2240. legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.
Legislative history of Law 6-71. — For

§ 2-1209.11. Advisory Board established. [Repealed].

Repealed.

(Dec. 12, 1985, D.C. Law 6-71, § 12, 32 DCR 6334; Apr. 29, 1998, D.C. Law 12-86, § 401(a), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2241.
Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 2-1209.12. Duties of Advisory Board. [Repealed].

Repealed.

(Dec. 12, 1985, D.C. Law 6-71, § 13, 32 DCR 6334; Apr. 29, 1998, D.C. Law 12-86, § 401(a), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2242.
Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1209.11.

§ 2-1209.13. Rules. [Repealed].

Repealed.

(Dec. 12, 1985, D.C. Law 6-71, § 14, 32 DCR 6334; Apr. 29, 1998, D.C. Law 12-86, § 401(a), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2243.
Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1209.11.

§ 2-1209.14. Annual report.

The Office of Business and Economic Development shall annually prepare a report for the Committee on Economic Development which shall describe in detail the operations of each business incubator, including, but not limited to, a discussion of:

- (1) The business operation of each tenant business;
- (2) The impact of the product or service provided to the public and the job training opportunities of each tenant business to the economic development objectives of the city for which the tenant business was selected;
- (3) The employment benefits and revenues to the District as a result of the establishment of the business incubator;
- (4) The utilization of shared services;

(5) Any recurrent problems experienced in the management of the business incubator as well as the recommended corrective action;

(6) Any financial or technical assistance provided to a tenant business by the public or private sector;

(7) The establishment and implementation of business incubator policies, rules, and regulations; and

(8) Any legislative initiatives which would increase the productivity, viability, and economic benefits of business tenants or a business incubator facility.

(Dec. 12, 1985, D.C. Law 6-71, § 15, 32 DCR 6334; April 12, 2000, D.C. Law 13-91, § 126(b), 47 DCR 520.)

Prior Codifications. — 1981 Ed., § 1-2244.

Effect of amendments. — D.C. Law 13-91, in the introductory paragraph, substituted “Committee on Economic Development” for “HED Committee”.

Legislative history of Law 6-71. — For legislative history of D.C. Law 6-71, see Historical and Statutory Notes following § 2-1209.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

Subchapter V-A. Access to Capital for Businesses and Nonprofit Organizations.

§ 2-1210.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Capital access loan” means a loan that is entitled to be secured by the Fund.

(2) “Enrolled loan” means a capital access loan issued in accordance with:

(A) The participation agreement; and

(B) The program’s objectives.

(3) “Financial institution” includes a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, or nontraditional financial institution.

(4) “Fund” means the Capital Access Fund established by § 2-1210.02.

(5) “Loan” includes a line of credit.

(6) “Medium-sized business” means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) Is domiciled in the District of Columbia or has at least 51% of its employees located in the District of Columbia;

(B) Is formed to make a profit; and

(C) Employs at least 100, but fewer than 500, full-time employees.

(7) “Nonprofit organization” means a corporation, association, or organization which is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), that:

(A) Is domiciled in the District of Columbia; or

(B) Has at least 51% of its members located in the District of Columbia.

(8) “Participating financial institution” means a financial institution participating in the program.

(9) "Program" means the Capital Access Program.

(10) "Reserve account" means an account established in a participating financial institution on approval of the bank in which money is deposited to serve as a source of additional revenue to reimburse the financial institution for losses on loans enrolled in the program.

(11) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) Is domiciled in the District of Columbia or has at least 51% of its employees located in the District of Columbia;

(B) Is formed to make a profit;

(C) Is independently owned and operated; and

(D) Employs fewer than 100 full-time employees.

(Mar. 12, 2011, D.C. Law 18-322, § 2, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 2 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section, see § 2 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — Law 18-322, the "Capital Access Program Act of 2010", was introduced in Council and assigned Bill No. 18-1042, which was referred to the Committee Public Services and Consumer Af-

fairs. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 13, 2010, it was assigned Act No. 18-643 and transmitted to both Houses of Congress for its review. D.C. Law 18-322 became effective on March 12, 2011.

Delegation of Authority. — Delegation of Authority to the Commissioner of the Department of Insurance, Securities and Banking under the Capital Access Program Act of 2010, see Mayor's Order 2011-91, May 6, 2011 (58 DCR 4177).

§ 2-1210.02. Establishment of the Capital Access Fund.

(a) There is established as a nonlapsing fund the Capital Access Fund, which shall be used solely for the uses and purposes set forth in subsections (d) and (e) of this section. The Fund shall be funded by appropriations and from other amounts received by the District for the administration of the program. All funds collected from these sources shall be deposited into the Capital Access Fund.

(b) All funds deposited into the Capital Access Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsections (d) and (e) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) All funds deposited in the Capital Access Fund shall be exempt from the requirements imposed by subchapter III-A of Chapter 3 of Title 47 [§ 47-351.01 et seq.]. The Fund shall be administered as an agency fund under § 47-373(2)(I).

(d) The funds in the Fund shall be used solely to:

(1) Administer the Capital Access Program, including uses and expenditures authorized pursuant to subsection (e) of this section; and

(2) Make deposits in the reserve account of a participating financial

institution as authorized by this subchapter to be a source of money that the participating financial institution may receive as reimbursement for losses attributable to enrolled loans in the program.

(e) The Mayor shall administer the Fund and shall have the powers necessary to carry out the purposes of this subchapter, including the power to:

(1) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise of his or her powers;

(2) Employ personnel and counsel;

(3) Except as otherwise provided by this subchapter, impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges; and

(4) Adopt rules relating to the use and administration of the Fund pursuant to this subchapter.

(f) The District may accept gifts, grants, donations, and awards from any source, including the federal government, for the purposes of this subchapter.

(Mar. 12, 2011, D.C. Law 18-322, § 3, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 3 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 3 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.03. Capital Access Program establishment.

(a) There is established the Capital Access Program, to be administered by the Mayor, to assist financial institutions in making loans to businesses and nonprofit organizations that face barriers in accessing capital.

(b) The Mayor shall determine the eligibility of a financial institution to participate in the program and, by rule, may set a limit on the number of financial institutions that may participate in the program.

(Mar. 12, 2011, D.C. Law 18-322, § 4, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 4 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 4 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.04. Minimum eligibility requirements for participating financial institutions, capital access loans, and lines of credit.

(a) To participate in the Capital Access Program, a financial institution shall, at a minimum, enter into a participation agreement with the Mayor that sets out the terms and conditions under which the financial institution will make contributions to the financial institution's reserve account and specifies the criteria for a loan to qualify as a capital access loan. A participation

agreement executed by the Mayor pursuant to this subchapter shall include provisions to implement the limitations set forth in § 2-1210.07(a).

(b) To qualify as a capital access loan, a loan shall, at a minimum:

(1) Be made to a small business, a medium-sized business, or a nonprofit organization;

(2) Be used by the business or nonprofit organization for any project, activity, or enterprise in this District of Columbia that fosters economic development;

(3) Not exceed \$5 million; and

(4) Meet any other criteria provided by this subchapter.

(c) To qualify for participation in the Capital Access Program, a line of credit shall:

(1) Be an account at a financial institution under which the financial institution agrees to lend money to a person from time to time to finance one or more projects, activities, or enterprises that are authorized by this subchapter; and

(2) Contain the same restrictions, to the extent possible, that are placed on a capital access loan that is not a line of credit.

(Mar. 12, 2011, D.C. Law 18-322, § 5, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 5 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 5 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.05. Provisions relating to capital access loans.

(a) Except as otherwise provided by this subchapter, the Mayor shall not determine the recipient, amount, or interest rate of a capital access loan or the fees or other requirements related to the loan.

(b) A loan shall not be eligible to be enrolled under this subchapter if the loan is for:

(1) Construction of residential housing;

(2) Purchase of residential housing;

(3) Simple real estate investments, excluding the development or improvement of commercial real estate occupied by the borrower's business or organization; or

(4) Internal bank transactions.

(c) The borrower under an enrolled loan shall apply the loan to working capital or to the purchase, construction, or lease of capital assets, including buildings and equipment, used by the borrower. Working capital uses shall include the cost of exporting, accounts receivable, payroll, inventory, and other financing needs of the business or organization.

(d) An enrolled loan may be sold on the secondary market with no recourse to the District of Columbia. Recourse to the reserve account correspondent to the loan may be permitted for loans sold on the secondary market under conditions as may be established, by rule, by the Mayor.

(e) When enrolling a capital access loan in the program, a financial institution may specify an amount to be covered under the program that is less than the total amount of the loan.

(Mar. 12, 2011, D.C. Law 18-322, § 6, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 6 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 6 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.06. Reserve accounts.

(a) After entering into a participation agreement with the District of Columbia and upon approval by the Mayor, a financial institution making a capital access loan shall establish a reserve account. The reserve account shall be used by the financial institution only to cover any losses arising from a default of an enrolled loan made by the financial institution under this subchapter or as otherwise provided by this subchapter.

(b) When a financial institution makes a loan enrolled in the program, the financial institution shall require the borrower to pay to the financial institution a fee in an amount that is not less than 2%, but not more than 3.5%, of the principal amount of the loan, which fee the financial institution shall deposit in the reserve account. The financial institution shall also deposit in the reserve account an amount equal to the amount of the fee received by the institution from the borrower under this subsection; provided, that the financial institution may recover from the borrower all or part of the amount the financial institution is required to pay under this subsection in any manner agreed to by the financial institution and the borrower.

(c) For each capital access loan made by a financial institution, the financial institution shall certify to the Mayor, within the period prescribed by the Mayor, that:

- (1) The financial institution has made a capital access loan;
- (2) The amount that the financial institution has deposited in the reserve account, including the amount of fees received from the borrower; and
- (3) If applicable, that the borrower is financing an enterprise project or is located in, or financing a project, activity, or enterprise in, a District of Columbia Enterprise Zone under section 1400 of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 863; 26 U.S.C. § 1400).

(d) Upon receipt of a certification made under subsection (c) of this section, the Mayor shall deposit in the reserve account for each capital access loan made by the financial institution:

- (1) An amount equal to the amount deposited under subsection (b) of this section for each loan if the financial institution:
 - (A) Has assets of more than \$1 billion; or
 - (B) Has previously enrolled loans in the program that in the aggregate are more than \$2 million;
- (2) An amount equal to 150% of the total amount deposited under

subsection (b) of this section for each loan if the financial institution is not described in paragraph (1) of this subsection; or

(3) Notwithstanding paragraphs (1) and (2) of this subsection, and subject to the limitations set forth in § 2-1210.07(a), an amount equal to 200% of the total amount deposited under subsection (b) of this section for each loan if:

(A) The borrower is financing an enterprise project or is located in, or financing a project, activity, or enterprise located in, an area in the District of Columbia Enterprise Zone under section 1400 of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 863; 26 U.S.C. § 1400); or

(B) The financial institution is a community development financial institution, as defined in section 103(5) of the Riegle Community Development and Regulatory Improvement Act of 1994, approved September 23, 1994 (108 Stat. 2163; 12 U.S.C. § 4702(5)).

(e) A financial institution shall obtain approval from the Mayor to withdraw funds from the reserve account.

(Mar. 12, 2011, D.C. Law 18-322, § 7, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 7 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.07. Limitations on District's contribution to reserve account.

(a) The Mayor shall not deposit more than 10% of the total funds deposited in the Capital Access Fund into reserve accounts for capital access loans requiring a 200% match under § 2-1210.06(d)(3). The 10% limitation under this subsection may be waived at the discretion of the Mayor upon a finding that the total amount of funds deposited in the Capital Access Fund by the District shall result in at least \$10 of enrolled loans by financial institutions for each dollar deposited by the District.

(b) The amount deposited by the Mayor into a reserve account for any single loan recipient shall not exceed \$400,000 during a 3-year period.

(c) The maximum amount that the Mayor may deposit into a reserve account for each enrolled loan made under this subchapter shall be the greater of \$35,000 or an amount equal to:

(1) Fourteen percent of the enrolled loan amount if:

(A) The borrower is financing an enterprise project or is located in, or financing a project, activity, or enterprise in, an area in the District of Columbia Enterprise Zone under section 1400 of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 863; 26 U.S.C. § 1400); or

(B) The financial institution is a community development financial institution, as defined in section 103(5) of the Riegle Community Development and Regulatory Improvement Act of 1994, approved September 23, 1994 (108 Stat. 2163; 12 U.S.C. § 4702(5)); or

(2) Seven percent of the loan amount for any other borrower.

(Mar. 12, 2011, D.C. Law 18-322, § 8, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 8 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 8 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.08. District's rights with respect to reserve accounts.

(a) All funds deposited in a reserve account shall be the property of the District of Columbia.

(b) The District shall earn interest on the amount of contributions made by the District, the borrower, and the financial institution to a reserve account. The District shall withdraw monthly or quarterly from a reserve account the amount of the interest earned by the District and shall deposit the amount withdrawn into the Fund.

(c) If the amount in a reserve account exceeds 33% of the balance of the financial institution's outstanding enrolled loans, the Mayor may withdraw the excess amount and deposit the amount in the Fund. A withdrawal of money under this subsection shall not reduce an active reserve account to an amount that is less than \$200,000.

(d) The District shall withdraw from a reserve account the total amount in the account, including any interest earned on the account, and deposit the amount in the Fund when:

(1) A financial institution is no longer eligible to participate in the program or a participation agreement entered into under this subchapter expires without renewal by the financial institution;

(2) The financial institution has no outstanding enrolled loans;

(3) The financial institution has not made a capital access loan within the preceding 24 months; or

(4) The financial institution fails to submit a report or other document requested by the District within the time or in the manner prescribed.

(Mar. 12, 2011, D.C. Law 18-322, § 9, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 9 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 9 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.09. Quarterly and annual reports.

During each fiscal year of participation, financial institutions shall submit quarterly reports and a comprehensive annual report to the Mayor for the year. The reports shall:

(1) Provide information regarding outstanding capital access loans, capital access loan losses, and any other information on capital access loans that the Mayor considers appropriate;

(2) State the total amount of loans for which the financial institution has made a contribution from the fund under this subchapter;

(3) Include a copy of the financial institution's most recent financial statement; and

(4) Include information regarding the type and size of businesses and nonprofit organizations with enrolled loans.

(Mar. 12, 2011, D.C. Law 18-322, § 10, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 10 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 10 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.10. Reports and audits.

(a) The Mayor shall submit to the Council an annual status report on the program's activities.

(b) The financial transactions of the Fund shall be subject to audit by the District of Columbia Auditor as provided by § 1-204.55.

(Mar. 12, 2011, D.C. Law 18-322, § 11, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 11 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 11 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.11. District liability prohibited.

The District of Columbia shall not be liable to a participating financial institution for payment of the principal, interest, or any late charges on a capital access loan made under this subchapter.

(Mar. 12, 2011, D.C. Law 18-322, § 12, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 12 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 12 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

§ 2-1210.12. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of this title [§ 2-501 et seq.], shall issue rules to implement the provisions of this subchapter. The rules may:

(1) Provide for criteria under which a line of credit issued by a financial institution to a small business, a medium-sized business, or a nonprofit organization qualifies to participate in the program; and

(2) Authorize a consortium of financial institutions to participate in the program subject to common underwriting guidelines.

(Mar. 12, 2011, D.C. Law 18-322, § 13, 57 DCR 12442.)

Emergency legislation. — For temporary (90 day) addition of section, see § 13 of Capital Access Program Emergency Act of 2010 (D.C. Act 18-598, November 17, 2010, 57 DCR 11018).

For temporary (90 day) addition of section,

see § 13 of Capital Access Program Congressional Review Emergency Act of 2011 (D.C. Act 19-6, February 11, 2011, 58 DCR 1408).

Legislative history of Law 18-322. — For history of Law 18-322, see notes under § 2-1210.01.

Subchapter VI. Enterprise Zone Study Commission.

§ 2-1211.01. Statement of purpose.

The purpose of this subchapter is to create a commission to examine and evaluate proposals, recommendations, and studies in order to establish an enterprise zone or zones in blighted and underdeveloped areas of the District of Columbia ("District"). The commission shall submit a comprehensive plan to the Council of the District of Columbia ("Council"), consistent with historic and residential concerns, to provide for the establishment of an enterprise zone or zones in the District, which will encourage the elimination of economic problems in blighted and underdeveloped areas, foster the growth of small business, and lead to higher employment and economic development.

(Feb. 24, 1987, D.C. Law 6-171, § 2, 33 DCR 7205.)

Prior Codifications. — 1981 Ed., § 1-2251.

Legislative history of Law 6-171. — Law 6-171, the "District of Columbia Enterprise Zone Study Commission Act of 1986," was introduced in Council and assigned Bill No. 6-431, which was referred to the Committee on Housing and Economic Development. The Bill

was adopted on first and second readings on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 30, 1986, it was assigned Act No. 6-220 and transmitted to both Houses of Congress for its review.

§ 2-1211.02. Findings.

The Council finds that:

- (1) Unemployment in some areas of the District exceeds 10%.
- (2) The incidence of business dislocation in the District is alarming.
- (3) Many areas of the District suffer from the overall pattern of urban blight seen in other northeastern American cities.
- (4) Blighted areas have become a haven for criminal activity and have had a detrimental effect on the residential life of surrounding areas.
- (5) Enterprise zones established in other jurisdictions have created an aggregate of over 80,000 jobs and \$3 billion in investments.
- (6) The promotion of small business growth will lead to a better climate for employment and a better life for District residents.

(Feb. 24, 1987, D.C. Law 6-171, § 3, 33 DCR 7205.)

Prior Codifications. — 1981 Ed., § 1-2252. torical and Statutory Notes following § 2-1211.01.
Legislative history of Law 6-171. — For legislative history of D.C. Law 6-171, see His-

§ 2-1211.03. Commission established.

(a) There is established the District of Columbia Enterprise Zone Study Commission ("Commission").

(b) The commission shall be composed of 25 members who shall be appointed as follows:

(1) One member shall be appointed by each member of the Council; and

(2) Twelve members shall be appointed by the Mayor of the District of Columbia ("Mayor"), 1 of whom the Mayor shall appoint as the chairperson of the commission. In making his appointments, the Mayor shall appoint at least 6 people, each with experience or expertise in 1 of the following areas:

(A) Real estate development;

(B) Banking and lending;

(C) Finance and taxation;

(D) Historic preservation;

(E) Housing development;

(F) Business and management; or

(G) Labor and employee interests.

(c) A majority of the members of the commission shall constitute a quorum. A quorum of the members shall be necessary for the commission to conduct its business.

(d) Vacancies in the commission shall be filled in the same manner as the original appointment.

(Feb. 24, 1987, D.C. Law 6-171, § 4, 33 DCR 7205.)

Prior Codifications. — 1981 Ed., § 1-2253. torical and Statutory Notes following § 2-1211.01.
Legislative history of Law 6-171. — For legislative history of D.C. Law 6-171, see His-

§ 2-1211.04. Duties of commission.

The commission shall develop a method for the evaluation of a strategy to establish and implement an enterprise zone or zones in the District. The process shall include: The evaluation and consideration of a method to best select proposed sites for an enterprise zone or zones; tax incentives based on the number of new employees; exemptions from sales taxes on materials used in construction; abatement in real estate taxes; tax credits or deductions for capital improvements or employee training; low interest loans to help businesses get started; and reduction of business taxes to a level equal to or below that of the surrounding jurisdictions.

(Feb. 24, 1987, D.C. Law 6-171, § 5, 33 DCR 7205.)

Prior Codifications. — 1981 Ed., § 1-2254. **Legislative history of Law 6-171.** — For legislative history of D.C. Law 6-171, see Historical and Statutory Notes following § 2-1211.01.

§ 2-1211.05. Commission report.

The commission shall complete its work and submit its report with recommendations to the Council no later than 12 months following the first meeting of the commission. Upon filing its report, all authority for the commission shall expire.

(Feb. 24, 1987, D.C. Law 6-171, § 6, 33 DCR 7205; July 29, 1988, D.C. Law 7-137, § 2, 35 DCR 4262.)

Prior Codifications. — 1981 Ed., § 1-2255. **Legislative history of Law 6-171.** — For legislative history of D.C. Law 6-171, see Historical and Statutory Notes following § 2-1211.01.

Legislative history of Law 7-55. — Law 7-55 was introduced in Council and assigned Bill No. 7-294. The Bill was adopted on first and second readings on July 14, 1987 and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No.

7-88 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-137. — Law 7-137 was introduced in Council and assigned Bill No. 7-282, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on May 3, 1988 and May 17, 1988, respectively. Signed by the Mayor on June 1, 1988, it was assigned Act No. 7-187 and transmitted to both Houses of Congress for its review.

§ 2-1211.06. Compensation; assistance from other agencies.

(a) No compensation shall be paid to the members of the commission, but commission members may be reimbursed for actual expenses incurred in the performance of their duties.

(b) The Mayor shall provide office space and an appropriate staff of professional and clerical personnel to assist the commission in carrying out the duties assigned to it under this subchapter.

(c) The Mayor shall designate at least 1 employee from each of the following District agencies to serve as a liaison to the commission for the purpose of providing any information from the agency requested by the commission and lending needed assistance to the commission in performing its duties:

- (1) The Office of Business and Economic Development;
- (2) The Department of Housing and Community Development;
- (3) The Redevelopment Land Agency;
- (4) The Department of Finance and Revenue;
- (5) The Department of Consumer and Regulatory Affairs; and
- (6) Any other agency the Mayor deems appropriate.

(Feb. 24, 1987, D.C. Law 6-171, § 7, 33 DCR 7205.)

Prior Codifications. — 1981 Ed., § 1-2256. **Legislative history of Law 6-171.** — For legislative history of D.C. Law 6-171, see Historical and Statutory Notes following § 2-1211.01.

Editor's notes. — Pursuant to the Office of

the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Rev-

enue, as set forth in Commissioner's Order made effective January 22, 1997, nunc pro
69-96, dated March 7, 1969. This action was tunc.

Subchapter VI-A. Commercial Food Store Development.

PART A.

DEFINITIONS.

§ 2-1212.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Corner store" means a retail establishment that:

(A) Sells grocery products;

(B) Has less than 5,000 square feet of selling area;

(C) Does not have an off-premises retailer's license, Class A, established by § 25-112(d)(1); and

(D) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. § 2011 et seq.).

(2) "Eligible area" means:

(A) A historically underutilized business zone, as defined by section 3(p)(1) of the Small Business Act, approved July 18, 1958 (72 Stat. 384; 15 U.S.C. § 632(p)(1)); or

(B) Census tracts 18.01, 33.01, 95.05, 95.07, or 95.08.

(3) "Farmers market" means a public market, as defined by § 37-131.01(2), at which farmers and other producers sell fresh produce and healthy foods.

(4) "First source agreement" means the agreement required by § 2-219.03.

(5) "Grocery store" means a retail establishment that:

(A) Has a primary business of selling grocery products;

(B) Has at least 5,000 square feet of selling area that is used for a general line of food and nonfood grocery products; and

(C) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. (§ 2011 et seq.).

(6) "Healthy food" means fresh fruit and vegetables and other foods qualifying as healthy pursuant to 21 C.F.R. § 101.65(d)(2).

(7)(A) "Small food retailer" means a small business that is not a grocery store or a corner store and whose primary business is the retail sale of grocery items.

(B) The term "small food retailer" shall not include businesses that have an off-premises retailer's license, Class A, established by § 25-112(d)(1).

(C) For the purposes of this paragraph, the qualification of an entity or small business shall be established by the Mayor by rule.

(8) “SNAP benefits” means benefits provided by the Supplemental Nutrition Assistance Program, established by the Food Stamp Act of 1964, approved August 31, 1964 (78 Stat. 703; 7 U.S.C. § 2011 et seq.).

(9) “WIC benefits” means benefits provided by the Special Supplemental Nutrition Program for Women, Infants, and Children, established by section 17 of the Child Nutrition Act of 1966, approved September 26, 1972 (86 Stat. 729; 42 U.S.C. § 1786).

(Apr. 8, 2011, D.C. Law 18-353, § 101, 58 DCR 746.)

Legislative history of Law 18-353. — Law 18-353, the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010”, was introduced in Council and assigned Bill No. 18-967, which was referred to the Committee on Economic Development and the Committee on Government Operations and

the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-703 and transmitted to both Houses of Congress for its review. D.C. Law 18-353 became effective on April 8, 2011.

PART B.

GROCERY STORE DEVELOPMENT PROGRAM.

§ 2-1212.21. Establishment of a grocery store development program.

(a) The Mayor shall establish a Grocery Store Development Program (“Program”) within the Office of the Deputy Mayor for Planning and Economic Development to attract grocery stores to, and renovate grocery stores in, eligible areas in the District and to create quality jobs for District residents.

(b) The District of Columbia Housing Authority and the Office of Planning shall, as requested by the Deputy Mayor for Planning and Economic Development, assist the program by providing technical assistance and other resources. The Washington, D.C. Economic Partnership may assist this program by providing technical assistance and support.

(c) The Program may:

(1) Establish a working group of community development financial institutions, District agencies, nonprofit organizations, and other interested District individuals and organizations to seek federal funding through the Healthy Food Financing Initiative, the new market tax credits program, pursuant to section 45D of the Internal Revenue Code of 1986, approved December 21, 2000 (114 Stat. 2763; 26 U.S.C. § 45D), and other programs; and

(2)(A) Provide a combination of any or all of the following to grocery stores in eligible areas:

- (i) Grants;
- (ii) Loans;
- (iii) Federal tax credits;
- (iv) Other financial assistance; and
- (v) Technical assistance.

(B) The benefits provided by this paragraph shall be awarded to grocery

stores in eligible areas on a competitive basis, with priority given to grocery stores in eligible areas that are underserved by retail sales of healthy food.

(Apr. 8, 2011, D.C. Law 18-353, § 201, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.22. Requirements.

(a) As a condition of participating in the Program, an individual or legal entity operating a grocery store shall:

- (1) Accept SNAP benefits;
- (2) Apply to accept WIC benefits and accept WIC benefits if eligible;
- (3) Enter into a first source agreement; and
- (4) Sell fresh produce and healthy foods.

(b) A grocery store shall agree in writing to the conditions set forth in subsection (a) of this section for a period of at least 5 years as a condition of participating in the Program; provided, that this requirement shall not be enforceable if the individual or legal entity ceases grocery store operations.

(Apr. 8, 2011, D.C. Law 18-353, § 202, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.23. Grocery ambassador program.

The Deputy Mayor for Planning and Economic Development shall designate a District employee as the grocery ambassador to assist retailers in building or renovating grocery stores in eligible areas by:

- (1) Providing research and data on eligible areas with insufficient grocery access;
- (2) Coordinating with all relevant District agencies and public utilities;
- (3) Providing assistance in obtaining and expediting regulatory procedures and approvals; and
- (4) Providing other assistance as needed.

(Apr. 8, 2011, D.C. Law 18-353, § 203, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.24. Other incentives.

(a) The Zoning Commission should adopt regulations that permit bonus density or other appropriate zoning flexibility for projects in eligible areas with grocery stores, consistent with the Comprehensive Plan.

(b) When considering applications for special exceptions or planned unit

developments, the Zoning Commission and Board of Zoning Adjustment should give favorable weight to projects with grocery stores in eligible areas.

(c) Grocery stores in eligible areas shall be eligible for the Green Building Expedited Construction Documents Review Program established by § 6-1451.06 notwithstanding that they fail to qualify as green buildings under § 6-1451.01(17).

(Apr. 8, 2011, D.C. Law 18-353, § 204, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

PART C.

HEALTHY FOOD RETAIL PROGRAM.

§ 2-1212.31. Establishment of a healthy food retail program.

(a) The Mayor shall establish a Healthy Food Retail Program within the Department of Small and Local Business Development to expand access to healthy foods in eligible areas in the District by providing assistance to corner stores, farmers markets, and other small food retailers.

(b) The Department of Health, District Department of the Environment, Office of the Deputy Mayor for Planning and Economic Development, Office of Planning, and the University System of the District of Columbia shall, as requested by the Department of Small and Local Business Development, assist this program.

(c)(1) The program may provide a combination of any or all of the following to corner stores, farmers markets, and other small food retailers in eligible areas:

- (A) Grants;
- (B) Loans;
- (C) Federal tax credits;
- (D) Equipment;
- (E) Other financial assistance; and
- (F) Technical assistance.

(2) The benefits provided by this subsection shall be awarded to corner stores, farmers markets, and other small food retailers in eligible areas on a competitive basis, with priority given to projects with the greatest potential impact on expanding access to healthy foods in eligible areas that are underserved by retail sales of healthy food.

(d) Corner stores, farmers markets, and other small food retailers are encouraged to work cooperatively to expand access to healthy foods in eligible areas.

(e) The benefits provided by subsection (c) of this section may be used by corner stores to improve the display areas, exteriors, and interiors of corner stores to expand capacity to sell healthy food.

(f) The Department of Small and Local Business Development may contract with nonprofit organizations in promoting and implementing this program.

(g) The University System of the District of Columbia may provide nutrition education resources to eligible corner stores, farmers markets, and consumers in eligible areas.

(Apr. 8, 2011, D.C. Law 18-353, § 301, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.32. Requirements.

(a) Corner stores, farmers markets, and other small food retailers participating in the program established by § 2-1212.31 shall be strongly encouraged to:

- (1) Apply to accept SNAP benefits;
- (2) Apply to accept WIC benefits; and
- (3) Employ District residents.

(b) Resources may be provided under § 2-1212.31 to assist corner stores, farmers markets, and other small food retailers in acquiring the technology necessary to accept SNAP and WIC benefits.

(c) As a condition of participating in the program established by § 2-1212.31, individuals or entities operating corner stores, farmers markets, and other small food retailers shall agree in writing to sell produce or other healthy foods for at least 3 years; provided, that this requirement shall not be enforceable if the individual or entity, or its successor, ceases all of its retail food sales operations.

(Apr. 8, 2011, D.C. Law 18-353, § 302, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.33. Healthy food distribution.

(a) The Department of Small and Local Business Development shall convene a working group to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores. Corner stores shall be encouraged to work cooperatively to maximize their buying power.

(b) The working group shall include representatives from:

- (1) District agencies;
- (2) The grocery ambassador, designated under § 2-1212.23;
- (3) Nonprofit organizations;
- (4) Urban farmers and community gardeners;
- (5) Corner stores and their trade associations; and
- (6) Produce wholesalers.

(c) The working group shall issue a report, including recommendations, to the Mayor and the Council.

(d) The Department of Small and Local Business Development may issue grants, on a competitive basis, for the establishment of a commercial distribution system for fresh produce and healthy foods

(Apr. 8, 2011, D.C. Law 18-353, § 303, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

§ 2-1212.34. Energy efficiency.

The District Department of the Environment shall:

(1) Develop tools and resources for corner stores to reduce their operating costs by becoming more energy efficient; and

(2) Promote energy efficiency programs to corner stores.

(Apr. 8, 2011, D.C. Law 18-353, § 304, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

PART D.

RULES.

§ 2-1212.41. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of this title [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

(Apr. 8, 2011, D.C. Law 18-353, § 401, 58 DCR 746.)

Legislative history of Law 18-353. — For history of Law 18-353, see notes under § 2-1212.01.

Subchapter VII. Contractors Guarantee Association [Expired].

§ 2-1213.01. Technical Assistance Program. [Expired].

Expired.

(Mar. 21, 1995, D.C. Law 10-236, § 2 42 DCR 33.)

Prior Codifications. — 1981 Ed., § 1-2261. 1207.02.

Legislative history of Law 10-236. — For legislative history of D.C. Law 10-236, see Historical and Statutory Notes following § 2-

Expiration of Law 10-236. — Section 6(b) of D.C. Law 10-236 provided that the act shall expire 3 years after having taken effect. D.C.

Law 10-236, which added §§ 1-2261 to 1-2263 §§ 2-1213.01 to 2-1213.03, 2001 Ed., became effective on March 21, 1995.

§ 2-1213.02. Contractor fees. [Expired].

Expired.

(Mar. 21, 1995, D.C. Law 10-236, § 3, 42 DCR 33.)

Prior Codifications. — 1981 Ed., § 1-2262.

Legislative history of Law 10-236. — For legislative history of D.C. Law 10-236, see Historical and Statutory Notes following § 2-1207.02.

Expiration of Law 10-236. — See Historical and Statutory Notes following § 2-1213.01.

§ 2-1213.03. Establishment of Financial Assurance Fund. [Expired].

Expired.

(Mar. 21, 1995, D.C. Law 10-236, § 4, 42 DCR 33.)

Prior Codifications. — 1981 Ed., § 1-2263.

Legislative history of Law 10-236. — For legislative history of D.C. Law 10-236, see Historical and Statutory Notes following § 2-1207.02.

Expiration of Law 10-236. — See Historical and Statutory Notes following § 2-1213.01.

Editor's notes. — Revision of subchapter: D.C. Law 12-26 revised this subchapter by renumbering former §§ 1-2271 through 1-2291 as §§ 1-2272 through 1-2292 [§§ 2-1215.02 through 2-1215.22, 2001 Ed.], and by adding § 1-2271 [§ 2-1215.01, 2001 Ed.].

Subchapter VIII. Business Improvement Districts.

PART A.

GENERAL.

§ 2-1215.01. Findings and purpose.

(a) The Council finds that:

(1) Business Improvement Districts will help the District to promote economic growth and employment downtown and in other areas of the District;

(2) Property owners should be encouraged to create BIDs and BID corporations to enhance their local business climate;

(3) BID corporations should be given flexibility in establishing the self-help programs most consistent with their local needs, goals and objectives; and

(4) Because additional services and improvements attendant to a BID will provide direct benefits to the real property within a BID, the most equitable method of financing such services is to levy an additional real property tax against all nonexempt properties within a BID District.

(b) The purpose of this subchapter is to provide for the creation of Business Improvement Districts the activities of which will promote the general welfare

of the residents, employers, employees, property owners, commercial tenants, consumers, and the general public within a BID's geographic area by preserving, maintaining, and enhancing the economic health and vitality of a BID area as a community and business center.

(May 29, 1996, D.C. Law 11-134, § 2, 43 DCR 1684, as added Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2271.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of subchapter, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — Law 11-134, the "Business Improvement Districts Act of 1996," was introduced in Council and Assigned Bill No. 11-464, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on February 6, 1996, and March 5, 1996, respectively. Signed by the Mayor on March 25, 1996, it was assigned Act No. 11-242 and transmitted to both Houses of Congress for its review. D.C. Law 11-134 became effective on May 29, 1996.

Legislative history of Law 12-26. — Law 12-26, the "Business Improvement Districts Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-225, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 3, 1997, and June 17, 1997, respectively. Signed by the Mayor on July 3, 1997, it was assigned Act No. 12-109 and transmitted to both Houses of Congress for its review. D.C. Law 12-26 became effective on October 8, 1997.

Expiration of Law 11-134. — Section 24(b) of D.C. Law 11-134 provided that the act shall expire 20 years after its effective date. D.C. Law 11-134 was effective May 29, 1996.

Delegation of Authority. — Delegation of Authority Pursuant to D.C. Law 11-134, the "Business Improvement Districts Act of 1996", see Mayor's Order 2002-47, March 8, 2002 (49 DCR 2254).

Mayor's Orders. — Amendment to Mayor's Order 99-33, Registration of the Georgetown Business Improvement District pursuant to D.C. Law 11-134, the "Business Improvement Districts Amending Act of 1996, as amended",

see Mayor's Order 99-78, May 12, 1999 (46 DCR 5435).

Registration of the Capitol Hill North Addition to the Downtown DC Business Improvement District, see Mayor's Order 2002-46 March 8, 2002 (49 DCR 2253).

Extension of the Term of the Downtown DC Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, Effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code sec. 2-1215 et seq.), see Mayor's Order 2002-138, August 16, 2002 (49 DCR 7955).

Registration of the NoMa Business Improvement District ("NoMa BID") and the NoMa Improvement Association, Inc., pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code §§ 2-1215.01 et seq. (2006 Supp.)), see Mayor's Order 2007-105, May 3, 2007 (54 DCR 9041).

Extension of the Term of the Downtown DC Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq.), see Mayor's Order 2007-173, July 26, 2007 (54 DCR 11603).

Extension of the Term of the Capitol Hill Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq.), see Mayor's Order 2007-187, August 15, 2007 (54 DCR 11624).

Extension of the Term of the Golden Triangle Business Improvement District, see Mayor's Order 2008-124, September 4, 2008 (55 DCR 11202).

Extension of the Term of the Mount Vernon Triangle Community Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective March 17, 2005 (D.C. Law 15-257; D.C. Official Code §§ 2-1215.01 et seq.), see Mayor's Order 2009-169, September 30, 2009 (56 DCR 8102).

Extension of the Term of the Georgetown Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective March 17, 2005 (D.C. Law 15-257; D.C. Official Code §§ 2-1215.01 et seq.), see Mayor's Order 2009-170, September 30, 2009 (56 DCR 8103).

Extension of the Term of the Adams Morgan Partnership Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective March 17, 2005

(D.C. Law 15-257; D.C. Official Code §§ 2-1215.01 et seq.), see Mayor's Order 2011-158, September 20, 2011 (58 DCR 8412).

§ 2-1215.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Adjoining residential neighborhood" means any property zoned for residential use within a BID or within 800 feet of the perimeter of a BID.

(2) "Adverse impact on adjoining residential neighborhoods" means adverse impact on traffic, on-street parking, litter, trash collection, crime, noise, lighting levels, or other such factors affecting the quality of residential life.

(3) "Assessed value" means the valuation obtained by taking the assessed valuation of taxable real property as it appears on the last completed assessment roll for tax assessment purposes pursuant to § 47-801 et seq.

(4) "BID corporation" means a nonprofit corporation that is organized pursuant to the District law for nonprofit corporations and registered pursuant to the terms of this subchapter. A BID corporation shall not be deemed to be a part of the District government as that term is defined in § 47-393(5).

(5) "Block" means the properties fronting on both sides of a street that are located between 2 intersecting streets.

(6) "Business Improvement District Activity" or "BID activity" means a special service or activity conducted in a Business Improvement District designed to improve the economic development climate in the area pursuant to this subchapter, and which is designed and conducted so as to avoid any material adverse impact on adjoining residential neighborhoods and is otherwise in accordance with all applicable laws, regulations, and requirements of the District of Columbia and the United States, which services and activities may augment, but which may not replace, governmental services customarily provided in the regular course of the District's operations. This term shall include the planning, administration, and management of activities designed to provide economic stimulus, stability, or benefit to the BID or its members, including, but not limited to, the following:

(A) Seasonal promotions such as festivals and special displays;

(B) Enhanced maintenance and improvements to public space, including sidewalks, parks, and plazas;

(C) Marketing and procurement activities in support of tourism, job creation, business attraction, development, efficiency, and retention;

(D) Retail, restaurant, and arts promotions;

(E) Services to improve public safety and transportation, such as providing shuttle buses, community service representatives acting as goodwill ambassadors, and private security services;

(F) Development of special signage and storefront and commercial building facade improvement programs; and

(G) Any other service or activity consistent with the purposes of this subchapter if such service or activity is set out in the BID's business plan, as amended from time to time and as submitted to the Mayor in accordance with this subchapter.

(7) “Business Improvement District” or “BID” means a defined geographic area in the District in which the preponderance of activity carried out is commercial or industrial in nature, which does not include any part of an existing BID previously established pursuant to this subchapter, and which area consists of not less than 5 contiguous blocks (or the maximum number of contiguous blocks in cases where there are fewer than 5 contiguous blocks), or noncontiguous commercial blocks within a generally recognized single neighborhood; provided, that noncontiguous blocks are not wholly located in an area that is not part of the general BID area.

(8) “BID tax” means an additional real property tax assessed and levied by the District on, and payable by, the owners of nonexempt properties in a Business Improvement District subject to the BID certification processes of this subchapter.

(9) “CFO” means the Chief Financial Officer of the District.

(10) “Commercial tenant” means a lessee, or other lawful occupant, of nonexempt real property within a BID who is not an owner and who conducts a lawful commercial use as defined in the Zoning Regulations of the District.

(11) “Council” means the Council of the District of Columbia.

(12) “District” means the District of Columbia.

(13) “Fiscal year” means the same fiscal year as the fiscal year of the District.

(14) “Lot” means the lots described in the District tax and assessment records.

(15) “Mayor” means the Mayor of the District of Columbia or such administrative agency of the District that is designated by the Mayor to administer the provisions of this subchapter.

(16) “Member” means a member of the BID Corporation, the membership of which shall be comprised of each owner and each commercial tenant in the BID area, each person who becomes a member pursuant to § 2-1215.21, and, in the case of the Mount Vernon Business Improvement District, each residential tenant in the BID area.

(17) “Member of record” means a member that the BID is reasonably able to identify from District of Columbia property tax records or from other reasonably available sources.

(18) “Nonexempt real property” means real property that is not exempt from paying real property taxes pursuant to Chapter 10 of Title 47 [§ 47-1001 et seq.], is not residential property, and is not the residential portion of a property used for both residential and nonresidential purposes; except, in the case of the Mount Vernon Triangle BID, NoMa BID, or Capitol Riverfront BID, “nonexempt real property” means real property that is neither:

(A) Exempt from paying real property taxes pursuant to Chapter 10 of Title 47 [§ 47-1001 et seq.];

(B) A residential building where, upon March 17, 2005, 90% or more of the leased units are restricted to households with at least one individual of 62 years of age or older and all individuals of 55 years of age or older;

(C) A residential building where, upon March 17, 2005, 20% or more of the units are subject to a contract for project-based assistance under Section 8 of the United States Housing Act of 1937; nor

(D) A residential building with fewer than ten residential units.

(19) "Owner" means an owner of nonexempt real property.

(20) "Owner's property" means an owner's nonexempt real property located within a BID.

(21) "Person" means any individual, sole proprietorship, partnership, society, association, joint venture, stock company, corporation, limited liability company, estate, receiver, trustee, assignee, fiduciary, or any combination of any of the foregoing.

(22) "Reasonably ascertainable", "reasonably available", and "reasonably determined" mean, in relation to information, reasonably reliable information that is obtained by the BID and relied upon by the BID in good faith.

(23) "Residential tenant" means a lessee, or other lawful occupant, of nonexempt real property within a BID who is not an owner and who conducts a lawful residential use as defined in the Zoning Regulations of the District.

(May 29, 1996, D.C. Law 11-134, § 2, 43 DCR 1684; renumbered as § 3, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Mar. 24, 1998, D.C. Law 12-81, § 4, 45 DCR 745; Mar. 17, 2005, D.C. Law 15-257, § 2(b), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(a), 52 DCR 10637; Mar. 8, 2007, D.C. Law 16-245, § 2(a), 54 DCR 615; Oct. 18, 2007, D.C. Law 17-27, § 2(a), 54 DCR 8020.)

Section references. — This section is referred to in §§ 2-1215.06 and 2-1215.09.

Prior Codifications. — 1981 Ed., § 1-2272.

Effect of amendments. — D.C. Law 15-257, in par. (16), substituted "each" for "and each" and inserted "and, in the case of the Mount Vernon Business Improvement District, each residential tenant in the BID area" before the period at the end; rewrote par. (18); and added par. (23). Prior to amendment, par. (18) read as follows: "(18) 'Nonexempt real property' means real property that is not exempt from paying real property taxes pursuant to § 47-1001 et seq., is not residential property, and is not the residential portion of a property used for both residential and nonresidential purposes."

D.C. Law 16-91, in par. (16), validated a previously made technical correction.

D.C. Law 16-245, in par. (18), substituted "Mount Vernon Triangle BID or NoMa BID" for "Mount Vernon Triangle BID".

D.C. Law 17-27, in par. (18), substituted "NoMa BID, or Capitol Riverfront BID" for "or NoMa BID".

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

For temporary (225 day) amendment of section, see § 2(a) of the Mount Vernon Triangle Business Improvement District Temporary

Amendment Act of 2004 (D.C. Law 15-173, July 8, 2004, law notification 51 DCR 7338).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

For temporary amendment of section, see § 2(a) of the Mount Vernon Triangle Business Improvement District Emergency Amendment Act of 2004 (D.C. Act 15-404, March 18, 2004, 51 DCR 3647).

For temporary (90 day) amendment of section, see § 2(a) of Mount Vernon Triangle Business Improvement District Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-480, July 19, 2004, 51 DCR 7619).

For temporary (90 day) amendment of section, see § 2(a) of Capitol Riverfront Business Improvement District Emergency Amendment Act of 2007 (D.C. Act 17-78, July 27, 2007, 54 DCR 7631).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-81. — Law 12-81, the "Technical Amendments Act of 1998,"

was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Legislative history of Law 15-257. — Law 15-257, the “Business Improvement Districts and Anacostia Waterfront Corporation Clarification Amendment Act of 2004”, was introduced in Council and assigned Bill No 15-717, which

was referred to Committee of Economic Development. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-632 and transmitted to both Houses of Congress for its review. D.C. Law 15-257 became effective on March

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

References in text. — Section 8 of the United States Housing Act of 1937, referred to in subpar. (c) of par. (18), is codified to 42 U.S.C. § 1437f.

§ 2-1215.03. BID formation.

Each BID shall be organized as a nonprofit corporation under the laws of the District and shall be subject to all applicable District and federal laws and regulations. Each owner and each commercial tenant within a BID, whether such owner or commercial tenant is an owner or commercial tenant at the time the BID is established or at any time thereafter when the BID is in existence, shall be a member of the BID corporation from such time as the BID corporation becomes registered pursuant to this subchapter and until such time as such member’s ownership or tenancy within the BID area is terminated or the BID corporation is terminated or dissolved.

(May 29, 1996, D.C. Law 11-134, § 3, 43 DCR 1684; renumbered as § 4, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2273.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.04. Establishment of Business Improvement District.

(a) To establish a BID with respect to any area, the Board of Directors of a nonprofit corporation established under District law for the purpose of forming a BID and seeking to be registered as a BID corporation shall submit an application to the Mayor for review of compliance with all BID criteria described in this section. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section. Each application shall be duly

sworn under oath before a notary public who holds a valid license in the District, and shall contain:

(1) A statement setting forth the name and address of the nonprofit corporation seeking registration as a BID corporation; a description by lot, square, and street address of the property of each owner to the extent reasonably ascertainable; and the most recent assessed value of each nonexempt real property located in the proposed BID to the extent reasonably ascertainable from District property tax records or a final determination of the Real Property Tax Appeals Commission for the District of Columbia. The statement must be signed by the owners (or their authorized representatives) who own at least a 51% interest in the most recent assessed value of the nonexempt real properties in the geographic area of the proposed BID as a whole, and at least 25% in number of the individual nonexempt properties of record in the BID area as a whole. For the purposes hereof, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single property for the purpose of determining the number of nonexempt properties referred to in this paragraph; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application;

(2) A proposed business plan ("BID plan") for at least the first 3 years of the initial 5-year term of the BID. The BID plan shall contain, at a minimum, the following:

(A) Specific goals and objectives of the BID consistent with the BID activity as defined in this subchapter, anticipated resources to be used to meet such goals and objectives, and projected timetables for undertaking and completing projects in furtherance of the goals and objectives;

(B) The annual proposed total BID taxes for the BID's common operations for the BID's first year of operation and the formula used to determine each owner's BID tax which shall be based upon either assessed value, square footage, or a uniform fixed tax per building. BID taxes may vary by class and type of property provided that they are applied fairly and equitably to all owners within the BID; and

(C) The maximum amount and the nature of any start-up costs incurred prior to the BID's registration that the BID plans to reimburse upon its registration;

(3) A tax assessor's map of the geographic area comprising the BID clearly designating the BID boundaries and each property by street address, lot, and square number to be included within the BID;

(4) A list of the initial members of the Board of the BID, which must satisfy the criteria of § 2-1215.07;

(5) The adopted articles of incorporation and the adopted bylaws of the

nonprofit corporation seeking to be registered as the BID corporation which articles of incorporation or bylaws must include:

(A) The names and addresses of the initial directors and a provision stating that the term of the initial directors shall expire at such time as new directors are elected pursuant to § 2-1215.07(b). Such terms shall in no event exceed 120 days after the BID is registered by the Mayor;

(B) The procedures through which the members of the BID corporation shall propose and vote to adopt amendments to the initial bylaws, including the quorum requirements for the method of allocating votes to members for purposes of this vote which shall occur not more than 120 days after the BID is registered by the Mayor; and

(C) The number of votes allocated to each member subject to the requirements of § 2-1215.11(a). The adopted articles of incorporation and the adopted bylaws of the nonprofit corporation may contain any provision not inconsistent with the District nonprofit corporation law or this subchapter;

(6) A list, by street address, lot, and square number, of all nonexempt real property within the proposed BID, including the names and mailing addresses of the record owners to the extent reasonably ascertainable from the real property records of the Office of Recorder of Deeds or the real property tax and assessment records of the Office of Taxation and Revenue;

(7) A list of the names and addresses of all commercial tenants within the BID area, to the extent reasonably ascertainable; and

(8) The name of the bank and the location of the branch at which the BID will establish its bank accounts, which shall be subject to, in addition to the other approvals required by this section, the approval of the CFO.

(b) To establish a BID outside the central employment area, Georgetown, Capitol Hill, Mount Vernon Triangle, Adams Morgan, NoMa, Capitol Riverfront, or Anacostia the statement required by subsection (a)(1) of this section must be signed by at least 51% of the number of commercial tenants (or their authorized representatives) occupying nonexempt real properties in the geographic area of the proposed BID, owners (or their authorized representatives) who own at least a 51% interest in the most recent assessed value of the nonexempt real properties within the proposed BID area, and owners (or their authorized representatives) who own at least 51% in number of the individual nonexempt real properties within the proposed BID area.

(c) Nothing in this subchapter shall be construed as modifying or waiving the District's right to enact or adjust any District tax, tax rate, fee, or other assessment applicable to categories of persons or businesses that include persons or businesses subject to a BID tax under this subchapter. Nothing in this subchapter shall be used as a rationale for modifying the District's method of property tax assessment.

(May 29, 1996, D.C. Law 11-134, § 4, 43 DCR 1684; renumbered as § 5, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 20, 1999, D.C. Law 12-264, § 11(a), 46 DCR 2118; Apr. 27, 1999, D.C. Law 12-269, § 2, 46 DCR 1108; Apr. 3, 2001, D.C. Law 13-213, § 2(a), 47 DCR 9467; Oct. 1, 2002, D.C. Law 14-183, § 2(a), 49 DCR 6056; Oct. 17, 2002, D.C. Law 14-198, § 2, 49 DCR 7644; Apr.

2, 2003, D.C. Law 14-268, § 2, 50 DCR 428; Mar. 13, 2004, D.C. Law 15-105, § 7, 51 DCR 881; Mar. 17, 2005, D.C. Law 15-257, § 2(c), 52 DCR 1161; Mar. 8, 2006, D.C. Law 16-56, § 2(a), 53 DCR 10; Apr. 7, 2006, D.C. Law 16-91, § 140(b), (d), 52 DCR 10637; Mar. 8, 2007, D.C. Law 16-245, § 2(b), 54 DCR 615; Oct. 18, 2007, D.C. Law 17-27, § 2(b), 54 DCR 8020; Dec. 24, 2009, D.C. Law 18-99, § 2(a), 56 DCR 8707; Apr. 8, 2011, D.C. Law 18-363, § 3(d)(1), 58 DCR 963.)

Section references. — This section is referred to in §§ 2-1215.05, 2-1215.06, 2-1215.15, 2-1215.51, and 2-1215.57.

Prior Codifications. — 1981 Ed., § 1-2274.

Effect of amendments. — D.C. Law 13-213 rewrote subsec. (b) which prior thereto read:

“(b) With respect to areas outside the central employment area and Georgetown, a BID may be established if the requirements of subsection (a)(2)-(8) of this section are met, if the statement is signed by at least 51% of the number of commercial tenants occupying nonexempt real properties in the geographic area of the proposed BID, and if owners who own at least 51% of the interest in the assessed value of the commercial properties within the proposed BID area and owners who own at least 51% of the individual properties within the proposed BID area agree to do so.”

D.C. Law 14-183 added subsec. (c-1).

D.C. Law 14-198, in subsec. (c), substituted “Fourteen” for “Twelve” in pars. (1), (2), and (4), and substituted “Fifty” for “Sixty” in par. (3).

D.C. Law 14-268 added subsec. (e-2).

D.C. Law 15-105 validated previously made technical corrections.

D.C. Law 15-257 rewrote the section.

D.C. Law 16-56, in subsec. (b), substituted “Mount Vernon Triangle, or Adams Morgan” for “or Mount Vernon Triangle”.

D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text and, in subpar. (a)(5)(C), validated previously made technical corrections.

D.C. Law 16-245 substituted “Adams Morgan, or NoMa” for “or Adams Morgan”.

D.C. Law 17-27, in subsec. (b), substituted “NoMa, or Capitol Riverfront” for “or NoMa”.

D.C. Law 18-99, in subsec. (b), substituted “Capitol Riverfront, or Anacostia” for “or Capitol Riverfront”.

D.C. Law 18-363, in subsec. (a)(1), substituted “Real Property Tax Appeals Commission for the District of Columbia” for “District’s Board of Real Property Assessments and Appeals”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

For temporary (225 day) amendment of section, see § 2 of the Georgetown Business Improvement District Temporary Amendment Act of 1998 (D.C. Law 12-137, July 24, 1998, law notification 45 DCR 6508).

For temporary (225 day) amendment of section, see § 2(a) of the North Capitol Expansion and Expansion of Business Improvement Districts Temporary Amendment Act of 2002 (D.C. Law 14-118, May 2, 2002, law notification 49 DCR 4393).

For temporary (225 day) amendment of section, see § 2 of the Capitol Hill Business Improvement District Temporary Amendment Act of 2002 (D.C. Law 14-225, March 25, 2003, law notification 50 DCR 2738).

For temporary (225 day) amendment of section, see § 2 of the Establishment of the Capitol Hill Business Improvement District Temporary Amendment Act of 2003 (D.C. Law 14-301, May 3, 2003, law notification 50 DCR 3775).

For temporary (225 day) amendment of section, see § 2 of the Expansion of the Golden Triangle Business Improvement District Temporary Amendment Act of 2003 (D.C. Law 15-66, February 6, 2004, law notification 51 DCR 2033).

For temporary (225 day) amendment of section, see § 2(b) of the Mount Vernon Triangle Business Improvement District Temporary Amendment Act of 2004 (D.C. Law 15-173, July 8, 2004, law notification 51 DCR 7338).

For temporary (225 day) amendment of section, see § 2(a) of the Adams Morgan Business Improvement District Temporary Amendment Act of 2005 (D.C. Law 16-16, September 14, 2005, law notification 52 DCR 9774).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747, and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

For temporary amendment of section, see § 2 of the Georgetown Business Improvement District Emergency Amendment Act of 1998 (D.C. Act 12-325, April 14, 1998, 45 DCR 2462), § 2 of the Georgetown Business Improvement District Revision Emergency Amendment Act of 1998 (D.C. Act 12-346, May 6, 1998, 45 DCR

2986), § 2 of the Georgetown Business Improvement District Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-389, June 30, 1998, 45 DCR 4628), and § 2 of the Georgetown Business Improvement District Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-28, March 15, 1999, 46 DCR 2985).

For temporary (90 day) amendment of section, see § 2(a) of North Capital Expansion and Expansion of Business Improvement District Emergency Amendment Act of 2002 (D.C. Act 14-258, January 30, 2002, 49 DCR 1420).

For temporary (90 day) amendment of section, see § 2 of Capitol Hill Business Improvement District Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-503, October 23, 2002, 49 DCR 10035).

For temporary (90 day) amendment of section, see § 2 of Establishment of the Capitol Hill Business Improvement District Emergency Amendment Act of 2002 (D.C. Act 14-592, January 7, 2003, 50 DCR 634).

For temporary (90 day) amendment of section, see § 2 of Business Improvement Districts Emergency Amendment Act of 2002 (D.C. Act 14-414, July 17, 2002, 49 DCR 7380).

For temporary (90 day) amendment of section, see § 2 of Capitol Hill Business Improvement District Emergency Amendment Act of 2002 (D.C. Act 14-455, July 23, 2002, 49 DCR 8104).

For temporary (90 day) amendment of section, see § 2 of Expansion of the Golden Triangle Business Improvement District Emergency Amendment Act of 2003 (D.C. Act 15-170, October 6, 2003, 50 DCR 9161).

For temporary (90 day) amendment of section, see § 2 of Expansion of the Golden Triangle Business Improvement District Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-348, February 6, 2004, 51 DCR 1838).

For temporary (90 day) amendment of section, see § 2(b) of Mount Vernon Triangle Business Improvement District Emergency Amendment Act of 2004 (D.C. Act 15-404, March 18, 2004, 51 DCR 3647).

For temporary (90 day) amendment of section, see § 2(b) of Mount Vernon Triangle Business Improvement District Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-480, July 19, 2004, 51 DCR 7619).

For temporary (90 day) amendment of section, see § 2(a) of Adams Morgan Business Improvement District Emergency Amendment Act of 2005 (D.C. Act 16-80, May 18, 2005, 52 DCR 5254).

For temporary (90 day) amendment of section, see § 2(a) of Adams Morgan Business Improvement District Emergency Amendment Act of 2005 (D.C. Act 16-80, May 18, 2005, 52 DCR 5254).

For temporary (90 day) amendment of section, see § 2(a) of Adams Morgan Business Improvement District Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-142, July 26, 2005, 52 DCR 7169).

For temporary (90 day) amendment of section, see § 2(b) of Capitol Riverfront Business Improvement District Emergency Amendment Act of 2007 (D.C. Act 17-78, July 27, 2007, 54 DCR 7631).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-264. — Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Legislative history of Law 12-269. — Law 12-269, the “Georgetown Business Improvement District Amendment Act of 1998,” was introduced in Council and assigned Bill No. 1285, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-585 and transmitted to both Houses of Congress for its review. D.C. Law 12-269 became effective on April 27, 1999.

Legislative history of Law 13-213. — Law 13-213, the “Capitol Hill Business Improvement District Procedure Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-591, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on July 11, 2000, and October 3, 2000, respectively. Signed by the Mayor on October 30, 2000, it was assigned Act No. 13-465 and transmitted to Both Houses of Congress for its review. D.C. Law 13-213 became effective on April 3, 2001.

Legislative history of Law 14-183. — Law 14-183, the “Capitol Hill North Expansion and Expansion of Business Improvement District Amendment Act of 2002,” was introduced in Council and assigned Bill No. 14-456, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on

June 21, 2002, it was assigned Act No. 14-384 and transmitted to both Houses of Congress for its review. D.C. Law 14-183 became effective on October 1,

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 11-34 D.C. Law 11-134, the “Business Improvement Districts Act of 1996”, see Mayor’s Order 97-129, July 17, 1997 (44 DCR 4543).

Mayor’s Orders. — Extension of the term of the Golden Triangle Business Improvement District Pursuant to the Business Improve-

ment Districts Act of 1996, see Mayor’s Order 2003-130, September 11, 2003 (50 DCR 8036).

Expansion of the Golden Triangle Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, see Mayor’s Order 2003-153, October 31, 2003 (50 DCR 9985).

Registration of the Mount Vernon Triangle Community Improvement District pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code §§ 2-1215.01 et seq. (2003 Supp.)), see Mayor’s Order 2004-73, May 5, 2004 (51 DCR 5275).

§ 2-1215.05. Review of application.

(a) The Mayor shall have 15 days (excluding Saturdays, Sundays, and holidays) from the date of the filing of a BID application to conduct a preliminary review of the application to determine if the filing criteria set forth in § 2-1215.04 have been met and if the application is otherwise in conformity with this subchapter. If the Mayor fails to make a determination that the BID application is either not in conformity with this subchapter or that the BID application requirements have been met within 15 days (excluding Saturdays, Sundays, and holidays), such inaction shall constitute an affirmative preliminary determination that the BID application requirements have been met and the Mayor shall schedule, notify, and hold the required public hearing pursuant to § 2-1215.06. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

(b)(1) If the Mayor determines that any of the BID criteria set forth in § 2-1215.04(a), except the provisions of § 2-1215.04(a)(1), have not been met or that the BID application is not in conformity with this subchapter, the Mayor shall specify the particular items that need to be corrected and notify the applicant that the application can be corrected and resubmitted within 30 days from the date of this notification. If a corrected BID application is not submitted within the 30-day period, the Mayor shall enter an order rejecting the application. If the Mayor determines that the criteria set forth in § 2-1215.04(a)(1) have not been met, the Mayor shall notify the applicant that this standard has not been met and the applicant shall not be eligible to resubmit an application for a period of one year from the initial date of submission.

(2) Once the Mayor affirmatively determines that the BID application requirements have been met, the Mayor shall issue a notice of preliminary finding to the applicant and to Council.

(May 29, 1996, D.C. Law 11-134, § 5, 43 DCR 1684; renumbered as § 6, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Section references. — This section is referred to in §§ 2-1215.06, 2-1215.09, 2-1215.51, 2-1215.56, and 2-1215.57.

Prior Codifications. — 1981 Ed., § 1-2275.
Temporary Amendment of Section. — For temporary (225 day) amendment of section,

see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.06. Hearing.

(a) The Mayor shall hold a public hearing within 45 days of the issuance of his findings pursuant to § 2-1215.05(b)(2). The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the functions described by this section.

(b) Notice to the public shall be made no less than 21 days prior to the hearing.

(c) The Mayor shall advertise the notice of the public hearing along with the notice of preliminary finding in the District of Columbia Register, and ensure that such notices are advertised in either The Washington Post or the Washington Times, and at least one monthly, biweekly, or weekly community newspaper serving the BID area. In the event the notice of public hearing along with the notice of preliminary findings cannot be advertised in The Washington Post and the Washington Times due to circumstances beyond the control of the Mayor, the notice shall be advertised in 2 newspapers of general circulation published in the District of Columbia, once every 2 weeks or more frequently.

(d) No less than 21 days prior to the public hearing, the applicant shall send, by first class mail, notice of the Mayor's preliminary determination; notice of the public hearing, including the date, time, and place and availability of the BID application for review; and a summary of the application stating the borders of the proposed BID, the BID plan, and the BID taxes, to:

(1) The Council;

(2) Each owner of nonexempt real property within the proposed BID area at the address shown in the most recent real property tax assessment records of the District or, at the election of the applicant, at another address if it is reasonably determined that the information in the District's records is dated;

(3) Each commercial tenant, to the extent reasonably ascertainable;

(4) Each advisory neighborhood commission in which the proposed BID is located to the extent reasonably ascertainable; and

(5) Each major citizens association covering the area in which the proposed BID is located, to the extent reasonably ascertainable.

(e) The BID application shall be made available to the public for review during normal business hours on weekdays in at least one location in the proposed BID area designated by the applicant, and at a generally accessible District government office designated by the Mayor. The notice of the public hearing shall describe these locations.

(f) The Mayor shall use the public hearing on the proposed BID to determine whether the BID plan meets the purposes of this subchapter and the definition of BID activity in § 2-1215.02, and all other BID application requirements.

(g) Within 10 days after the public hearing (excluding Saturdays, Sundays, and holidays) the Mayor shall either:

(1) Register the BID and the nonprofit corporation that submitted the application under § 2-1215.04 as the BID corporation; or

(2) Determine that the BID application requirements have not been met or that the BID plan does not meet the purposes of this subchapter and the definition of BID activity in § 2-1215.02. The Mayor shall specify the particular items that need to be corrected and notify the applicant that he will have 45 days from the date of this notification within which to correct the BID application.

(A) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application adequately addresses the items that were included in the Mayor's notification, the Mayor shall register the BID and the nonprofit corporation that submitted the application under § 2-1215.04 as the BID corporation.

(B) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall issue an order rejecting the registration. This order shall include the findings of fact upon which it is based.

(C) If a corrected BID application is not submitted within the 45-day period, the Mayor shall issue an order rejecting the registration. This order shall include findings of fact.

(h) If an order of rejection is not issued within 60 days from the date of the public hearing, the BID and the nonprofit corporation that submitted the application under § 2-1215.04 shall be deemed registered by the Mayor; except that, if the corrected application under subsection (g) of this section is determined by the Mayor to contain substantial changes, the Mayor may extend the review period for 5 business days. After such time the BID and the nonprofit corporation that submitted the application under § 2-1215.04 shall be deemed registered.

(i) Proceedings and determinations under the provisions of this subchapter shall not be considered contested cases under Chapter 5 of this title.

(May 29, 1996, D.C. Law 11-134, § 6, 43 DCR 1684; renumbered as § 7, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 20, 1999, D.C. Law 12-264, § 11(b), 46 DCR 2118.)

Section references. — This section is referred to in §§ 2-1215.05, 2-1215.07, 2-1215.09, 2-1215.15, 2-1215.18, 2-1215.51, and 2-1215.56.

Prior Codifications. — 1981 Ed., § 1-2276.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law

12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

agency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-264. — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

Mayor's Orders. — Registration of Business Improvement District Pursuant to D.C. Law 11-134, the "Business Improvement Districts Act of 1996.": See Mayor's Order 97-153, September 2, 1997 (44 DCR 5258).

Registration of the Golden Triangle Business Improvement District Pursuant to D.C. Law 11-134, the "Business Improvement Districts Act of 1996.": See Mayor's Order 97-202, December 3, 1997 (45 DCR 51).

Registration of the Georgetown Business Improvement District Pursuant to D.C. Law 11-134, the "Business Improvement Districts Act of 1996.": See Mayor's Order 99-33, February 8, 1999 (46 DCR 1205).

§ 2-1215.07. Board of Directors; officers; qualifications; expenses.

(a) The powers of each BID corporation shall be vested in a Board of Directors ("Board"). Board members shall include owners, or principals, agents, partners, managers, trustees, stockholders, officers, or directors of owners, and commercial tenants, and also may include residents, community members, and governmental officials; provided, that not less than a majority of all Board members shall represent owners.

(b) The initial Board of the BID corporation shall be the directors of the nonprofit corporation that submitted the BID application and that the Mayor designated as the BID corporation pursuant to § 2-1215.06. Within 120 days of the registration of the BID corporation, the members of the BID shall have the opportunity to nominate and elect the Board as provided in the BID articles of incorporation or bylaws.

(c) The Board and its officers shall have all the power and authority of nonprofit corporations established under District law, except to the extent specifically precluded by this subchapter. This power shall include, but not be limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, and to borrow money or issue bonds.

(d) No Board member, officer of the BID corporation, or any member shall be paid any salary or other remuneration for serving as such, but may be reimbursed for actual and reasonable out-of-pocket expenses incurred in the performance of such person's duties in connection with the BID, except that an officer who also serves as the managing agent of the BID may receive compensation.

(e) Each Board may hire a managing agent to perform any or all of the Board's nonfiduciary duties at a commercially reasonable rate and for such terms as the Board deems advisable. A managing agent shall not be a BID member or an affiliate of a BID member, but may be a property manager or asset manager of one or more of the properties located in the BID.

(f) The Board may employ other persons to assist in carrying out the functions of the BID corporation.

(May 29, 1996, D.C. Law 11-134, § 7, 43 DCR 1684; renumbered as § 8, Oct.

8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 20, 1999, D.C. Law 12-264, § 11(c), 46 DCR 2118.)

Section references. — This section is referred to in § 2-1215.04.

Prior Codifications. — 1981 Ed., § 1-2277.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 1-134. — For legislative history of D.C. Law 1-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-264. — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 2-1215.04.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.08. Bylaws and articles of incorporation; amendments.

(a) The Board of each BID corporation shall govern the BID corporation in accordance with the articles of incorporation and bylaws which shall be the articles of incorporation and bylaws of the nonprofit corporation that submitted the BID application. The members shall have the opportunity to be present and vote to adopt amendments to the initial bylaws at a meeting to be held within 120 days of the registration of the BID by the Mayor; provided, that members shall follow the procedures for offering such amendments as provided in the BID's articles of incorporation or bylaws. Bylaws of the BID corporation shall set forth the powers and duties of the Board and its officers, the procedures for removal and replacement of Board members and officers, the method of determining BID taxes consistent with this subchapter or other Council authorization, the calling of meetings and the requirements for a quorum, ethics and conflict of interest standards, and such other information as is deemed advisable. In all cases the bylaws shall be consistent with the requirements imposed on nonprofit corporations under the applicable laws of the District, the provisions of this subchapter, and any regulations adopted pursuant to this subchapter.

(b) The Board, by a $\frac{2}{3}$ vote at a meeting called for such purposes, may adopt amendments to the BID bylaws, BID plan, and BID taxes authorized by this or any other act of the Council to reflect the changing needs of the BID corporation, which shall be duly ratified by a majority vote of the members present and voting at a regularly scheduled meeting at which a quorum is present.

(1) Amendments shall comply with all applicable provisions of this subchapter and any regulation adopted pursuant to this subchapter.

(2) Adopted amendments to the BID plan, including, but not limited to, any proposed amendment to the BID taxes, shall be filed with the Mayor within 15 days of adoption. The Mayor may designate the Deputy City

Administrator for Business Services and Economic Development to perform the review functions described by this section.

(A) The Mayor shall have 30 days after receipt of a revised BID plan to review such revisions and determine if they are in conformity with the terms of this subchapter.

(B) If the Mayor determines that the BID plan revisions are in conformity with the terms of this subchapter, the Mayor shall certify such revisions and notify the BID Board that the BID plan revisions have been certified.

(C) If the Mayor determines that the BID plan revisions are not in conformity with this subchapter, the Mayor shall not certify such revisions and shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect. The Mayor shall specify the particular items that need to be corrected and notify the BID Board that they will have 45 days from the date of this notification within which to correct the BID plan revisions.

(i) If a corrected BID plan revision is submitted within the 45-day period and the Mayor affirmatively determines that the corrected application adequately addresses the items that were included in the Mayor's notification, the Mayor shall certify the BID plan revisions.

(ii) If a corrected BID plan revision is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected plan revision does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

(iii) If a corrected BID plan revision is not submitted within the 45-day period, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

(D) If the Mayor fails to either certify the BID plan revisions or to notify the BID Board that the BID plan revisions have not been certified within 75 days of the date of their filing with the Mayor, such BID plan revisions shall be deemed to be certified by the Mayor.

(3) BID taxes can only be amended once annually.

(May 29, 1996, D.C. Law 11-134, § 8, 43 DCR 1684; renumbered as § 9, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Section references. — This section is referred to in §§ 2-1215.15, 2-1215.51, 2-1215.53, 2-1215.55, and 2-1215.57.

Prior Codifications. — 1981 Ed., § 1-2278.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44

DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.09. Expanding the geographic area of a BID.

(a) An established BID may only expand its geographic area if:

(1)(A) Owners of at least 51% interest in the assessed value of the nonexempt real properties and at least 25% in number of individual properties of record in a geographic area petition the existing BID to join the BID; or

(B) With respect to areas outside of the central employment area, Georgetown, and Capitol Hill, owners who own at least a 51% interest in the most recent assessed value of the nonexempt real properties, owners who own at least 51% of the individual nonexempt real properties, and at least 51% of the number of commercial tenants occupying nonexempt real properties in a geographic area petition the existing BID to join the BID;

(2) The BID meets the definition set forth in § 2-1215.02(7) in relation to the existing BID borders;

(3) Such petition is accepted by a majority vote of the existing BID Board; and

(3A) The petition is submitted to the Mayor with:

(A) The name and address of the BID corporation and a copy of the resolution adopted by the Board of Directors of the BID corporation accepting the petition;

(B) A description by lot, square, and street address of the property of each owner in the petition area, to the extent reasonably ascertainable; provided, that a property subdivided into separate condominium units shall constitute a single property for purposes of this subparagraph;

(C) The most recent assessed value of each nonexempt real property located in the petition area to the extent reasonably ascertainable from District property tax records or a final determination of the Real Property Tax Appeals Commission for the District of Columbia; provided, that a property subdivided into separate condominium units shall constitute a single property for purposes of this subparagraph;

(D) A business plan for including the petition area in the operations of the BID. The business plan shall contain, at a minimum:

(i) A map of the geographic area of the petition area and the existing BID;

(ii) The specific goals and objectives for the inclusion of the petition area in the BID consistent with the BID activity as defined in this subchapter; and

(iii) The applicable BID taxes;

(E) A list of the current members of the Board of Directors of the BID; and

(F) The current articles of incorporation and the bylaws of the BID.

(4) Such petition is approved by the Mayor in accordance with the procedures set forth in § 2-1215.05 and § 2-1215.06; provided, that wherever the word “application” or phrase “BID application” appears in § 2-1215.05 or § 2-1215.06, the word or phrase shall be considered to refer to the expansion petition, and wherever reference is made to the registration of the BID and the nonprofit corporation in § 2-1215.06, the reference shall be considered to refer

to registration of the expanded BID. The Mayor may designate the Deputy Mayor for Planning and Economic Development, or a successor thereto, to perform the review functions described by this section.

(5) The Mayor shall approve a petition if the Mayor determines that the petition was properly filed and adoption of the petition is consistent with the purposes of this subchapter and the definition of BID activity in § 2-1215.02(6).

(b) An expansion of a BID's geographic area pursuant to this section shall become effective on the effective date of an act of Council which approves such BID geographic expansion. Initial BID taxes for such area shall be collected at the next practicable regularly scheduled billing pursuant to § 2-1215.15.

(c) For the purposes of this section, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single property for the purpose of determining the number of nonexempt properties referred to in subsection (a) of this section; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application.

(May 29, 1996, D.C. Law 11-134, § 9, 43 DCR 1684; renumbered as § 10, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 3, 2001, D.C. Law 13-213, § 2(b), 47 DCR 9467; Oct. 1, 2002, D.C. Law 14-183, § 2(b), 49 DCR 6056; Apr. 8, 2011, D.C. Law 18-363, § 3(d)(2), 58 DCR 963.)

Section references. — This section is referred to in § 2-1215.15.

Prior Codifications. — 1981 Ed., § 1-2279.

Effect of amendments. — D.C. Law 13-213 rewrote subpar. (B) of par. (1) of subsec. (a) which prior thereto read:

“(B) With respect to areas outside the central employment area and Georgetown, owners who own at least 51% of the interest in the assessed value of the commercial properties, owners who own at least 51% of the individual properties, and at least 51% of the number of commercial tenants petition the existing BID to join the BID;”

D.C. Law 14-183, added subsec. (a)(3A); in subsec. (a)(4), substituted “§ 2-1215.05 and § 2-1215.06; provided, that wherever the word ‘application’ or phrase ‘BID application’ appears in § 2-1215.05 or § 2-1215.06, the word or phrase shall be considered to refer to the expansion petition, and wherever reference is made to the registration of the BID and the nonprofit corporation in § 2-1215.06, the reference shall be considered to refer to registration of the expanded BID” for “§ 2-1215.05” and

substituted “Deputy Mayor for Planning and Economic Development, or a successor thereto,” for “Deputy City Administrator for Business Services and Economic Development”; and added subsec. (a)(5).

D.C. Law 18-363, in subsec. (a)(3A)(C), substituted “Real Property Tax Appeals Commission for the District of Columbia” for “District’s Board of Real Property Assessments and Appeals”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

For temporary (225 day) amendment of section, see § 2(b) of the North Capitol Expansion and Expansion of Business Improvement Districts Temporary Amendment Act of 2002 (D.C. Law 14-118, May 2, 2002, law notification 49 DCR 4393).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment

Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

For temporary (90 day) amendment of section, see § 2(b) of North Capital Expansion and Expansion of Business Improvement District Emergency Amendment Act of 2002 (D.C. Act 14-258, January 30, 2002, 49 DCR 1420).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 13-213. — For D.C. Law 13-213, see notes following § 2-1215.04.

Legislative history of Law 14-183. — For Law 14-183, see notes following § 2-1215.04.

Legislative history of Law 18-363. — For history of Law 18-363, see notes under § 2-1215.04.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

Mayor's Orders. — Expansion of the Golden Triangle Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, see Mayor's Order 2003-153, October 31, 2003 (50 DCR 9985).

§ 2-1215.10. Meetings of members and the Board.

(a) Except as otherwise provided by this subchapter, meetings of the members shall be held in accordance with the provisions of the bylaws but shall occur at least once each year after the formation of the BID. The bylaws shall specify an officer who shall send each member notice of the time, place, and purposes of the meeting. Notice shall be given at least 21 days in advance of any annual or regularly scheduled meeting and at least 7 days in advance of any other meeting. Notice shall be sent by first class mail to all members of record at the address of their respective properties and to such other address as may have been designated to such officer. Notice may also be hand delivered by the officer, or his or her agent, provided the officer certifies in writing that notice was actually delivered to the member.

(b) All meetings of the Board shall be open to members. Minutes shall be recorded and shall be made reasonably available to all members and the Mayor and the Council.

(May 29, 1996, D.C. Law 11-134, § 10, 43 DCR 1684; renumbered as § 11, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2280.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.11. Voting.

(a) The articles of incorporation shall provide that each member is entitled to vote. The articles of incorporation and the bylaws may allocate to each BID

member a number of votes. The number of votes allocated to each member may be based on any fair and equitable formula that ensures not less than one vote per member and may take into account certain variables, including, but not limited to, assessed value of property owned or occupied, square footage owned or occupied, street frontage owned or occupied, location of property owned or occupied within the BID, obligation to pay BID taxes in the case of property owners, voluntary contribution to the BID in the case of exempt property owners, and payment for services under contract in the case of the federal government's General Services Administration.

(b) The articles of incorporation and the bylaws may govern how members may cast multiple votes, if multiple votes are allocated, and whether and how proxy voting will be recognized.

(c) In no case shall the total number of votes assigned to any one member or to any number of members under common ownership or control exceed $33\frac{1}{3}\%$ of the total number of votes which may be cast. For purposes of this section, ownership or control shall mean the possession of the power to directly or indirectly cause the direction of the management and the policies of the entity in question.

(May 29, 1996, D.C. Law 11-134, § 11, 43 DCR 1684; renumbered as § 12, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Section references. — This section is referred to in § 2-1215.04.

Prior Codifications. — 1981 Ed., § 1-2281.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-23. — For legislative history of D.C. Law 12-23, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.12. Books, minutes, and records; inspection; accounts; budgets.

(a) The BID's treasurer shall keep detailed records of the receipts and expenditures affecting the operation and administration of the BID. All such records, minutes of the meetings of the BID's members and Board, and any other records pertaining to the BID, including the names and addresses of the members, shall be available for examination by all of the members, the Mayor, the CFO, and the Council at convenient hours on working days that shall be set and announced for general knowledge. Subject to the provisions of subsection (b) of this section, upon request, any member, the Mayor, the CFO, or Council shall be provided a copy of the records and minutes.

(b) Books and records kept by or on behalf of a BID may be withheld from

examination or copying by members or others to the extent that the records concern:

- (1) Personnel matters;
- (2) Communications with legal counsel or attorney work product;
- (3) Transactions currently in negotiation and agreements containing confidentiality requirements;
- (4) Pending litigation;
- (5) Pending matters involving formal proceedings for enforcement of the BID articles of incorporation, bylaws, or rules and regulations promulgated pursuant thereto; or
- (6) Disclosure of information in violation of law.

(c) The BID may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books and records to members.

(d) The Board of each BID corporation may establish such checking, savings, money market, or other depository accounts as it deems advisable; provided, that such accounts may be established only in a federally insured financial institution doing business in the District.

(e) Upon establishment of the BID and no later than September 15th of each subsequent fiscal year, the Board of each BID corporation shall deliver to all members of record by first class mail, or by personal delivery, an operating budget outlining the Board's then current projections of revenues and operating expenses for the forthcoming fiscal year or portion thereof. The Board also shall deliver to the members of record from time to time, as circumstances warrant, a supplement to the then current operating budget outlining any material changes in anticipated expenditures or income during the applicable budget year. The Board shall update each operating budget and supplement from time to time as the Board receives information requiring material changes to such operating budget or supplement. Operating budgets and supplements shall not require the prior approval of the members. Each operating budget and supplement shall be effective upon delivery to the members of record, or the later effective date set forth in the budget or supplement. For purposes of this section, a material change is a change where major programmatic activity not anticipated in a previously approved plan is undertaken or that involves a reallocation of more than 10% of the anticipated revenues in a budget year.

(May 29, 1996, D.C. Law 11-134, § 12, 43 DCR 1684; renumbered as § 13, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2282.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment

Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-23. — For

legislative history of D.C. Law 12-23, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see His-

torical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.13. Annual report of BID corporation.

(a) The Board of each BID corporation shall file an annual report with the Mayor and the Council in compliance with subsection (b) of this section and financial statements with the CFO in compliance with subsection (c) of this section in such forms and at such times as are prescribed by regulations promulgated under this subchapter. The requirement for filing of an annual report shall commence in the first full fiscal year after BID registration.

(b) Each annual report shall include, at a minimum:

(1) A financial statement for the preceding year, including a balance sheet, statement of income and loss, and such other information as is reasonably necessary to reflect the BID's actual financial performance. Such statements shall be certified by the treasurer of the BID corporation and shall be prepared on a cash basis or an accrual basis in accordance with generally accepted accounting principles consistently applied;

(2) A proposed operating budget for the then current fiscal year; and

(3) A narrative statement or chart showing the results of operations in comparison to stated goals and objectives.

(c) Each financial statement package submitted to the CFO shall include, at a minimum, a financial statement, budget, and narrative statement in the same form as required by subsection (b) of this section.

(d) A copy of each annual report shall be sent to the Council, to any Advisory Neighborhood Commission in which any portion of the BID is located, and to all members in the BID, in each case by first class mail or by personal delivery.

(e) In connection with the filing of each annual report, each BID corporation shall allow its books and records to be open for inspection by the Mayor, the CFO, and the Council during reasonable working hours for such period of time as is prescribed by regulations promulgated under this subchapter.

(May 29, 1996, D.C. Law 11-134, § 13, 43 DCR 1684; renumbered as § 14, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2283.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-23. — For legislative history of D.C. Law 12-23, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.14. Liability.

(a) The District shall not be liable or responsible in any manner for any debts incurred, or for any acts or inactions, by the Board or by any agent, employee, or member of the BID corporation. The BID shall reimburse the District for any legal fees or any other legal expenses related thereto, that it may incur as a result of defending against any claim brought against it, or its agents, or officers, as a result of carrying out any actions under this subchapter; provided that the BID shall not be required to reimburse the District for any legal fees or any other expenses related thereto, that the District incurs as a result of defending against any claim brought against it, or its agents, or officers, by the BID if the BID is the substantially prevailing party.

(b) Neither a director, officer, or member nor any affiliate of a director, officer, or member, nor any shareholder, officer, director, employee, partner, agent, or advisor of a director, officer, or member nor an affiliate of any director, officer, or member of the BID shall be personally liable to the BID corporation or to any owner or member for loss or damage caused by any act or omission in such capacity, except for losses or damages caused by such party's fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence. The BID corporation shall indemnify (only to the extent of BID corporation assets without recourse to any owner or member) any person who was or is a party or threatened to be made a party to any threatened, pending, or completed action, suit or proceeding (other than an action by or on behalf of the BID corporation), which action, suit, or proceeding arises out of or relates to any claim, issue, or matter involving or affecting the BID corporation, by reason of the fact that such party is or was a director, officer, or member, an affiliate of a director, officer, or member, or an officer, shareholder, director, employee, partner, agent, or advisor of a director, officer, or member or an affiliate of any director, officer, or member, or is or was serving at the request of the BID corporation as an officer, shareholder, director, employee, agent, or advisor of another partnership, corporation, joint venture, trust, or other enterprise, against all expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred by such party in connection with such action, suit, or proceeding, so long as such party acted in good faith in a manner reasonably believed to be in or not opposed to the best interest of the BID corporation; provided, that no indemnification shall be made in respect of any claim, issue, or matter as to which a party has been adjudged to be liable for fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence, or with respect to any criminal action or proceeding.

(c) The BID corporation may maintain insurance on behalf of any person who is or was a director or officer or the shareholder, employee, partner, agent, or advisor of a director or officer for a liability asserted against it and incurred by such party in any such capacity or arising out of such party's status as such, whether or not the BID corporation would have the power to indemnify such party against such liability under this section.

(May 29, 1996, D.C. Law 11-134, § 14, 43 DCR 1684; renumbered as § 15, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2284.
Temporary Amendment of Section. — Temporary revision of subchapter: D.C. Law 12-23 amended this subchapter. See Historical and Statutory Notes following § 2-1215.01.

Section 4(b) of D.C. Law 12-23 provided that this act shall expire on the 225th day of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-23. — For legislative history of D.C. Law 12-23, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.15. Collection and disbursement of BID taxes.

(a) Within 10 days of its date of registration, and 90 days in advance of the beginning of each fiscal year, each BID shall provide the CFO with a preliminary BID tax roll, which shall include, for each property subject to the relevant BID tax, the square number, the lot number, the name of the BID, the period of time for the BID tax, and the amount of the BID tax for that property for that period of time. In addition to the preliminary tax roll, the BID shall also provide supporting information which describes the information relied upon by the BID in preparing the preliminary tax roll. The supporting information shall be based on information provided to the BID by the Office of Taxation and Revenue and any other reliable source. The preliminary BID tax roll and the supporting information shall be prepared in such form as may be prescribed by regulation by the CFO. In the event that a BID fails to provide the preliminary BID tax roll and the supporting information within the time period specified by this subsection, the BID taxes shall be collected at the time of the next regularly scheduled tax bill.

(b) During a control year, the CFO, and in any other year, the Mayor shall examine the preliminary BID tax roll and backup information and shall make any changes it deems are required by this subchapter. During a control year, the CFO, and in any other year, the Mayor, shall certify a final BID tax roll no later than 30 days prior to the billing dates described in subsection (e) of this section.

(c) Except as otherwise provided by this subchapter, BID taxes shall be collected by the CFO during a control year, and by the Mayor in any other year. Except as otherwise provided by this subchapter, BID taxes shall be collected in the same manner as real property taxes are collected. The CFO during a control year, and the Mayor in any other year, may contract with a financial institution having assets in excess of \$50 million or a BID (if the BID tax is related to such BID) to perform services for the District in connection with the collection and distribution of BID taxes.

(d) BID taxes shall be effective as of the date a BID is registered or deemed registered by the Mayor pursuant to § 2-1215.06, except for BID taxes that become effective pursuant to § 2-1215.04(f) or (g). Any changes to the BID tax

adopted pursuant to § 2-1215.08 shall be effective as of the first day of the subsequent fiscal year. BID taxes related to properties affected by a geographic expansion of the BID shall be effective as of the date such an expansion becomes effective pursuant to § 2-1215.09.

(e) BID taxes shall be payable in advance and shall cover the 6 months following the due date of the billing described by paragraph (1) of this subsection; provided however, in the case of the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period, BID taxes shall be payable as described by paragraph (2) of this subsection.

(1) BID taxes shall be due and payable semiannually in 2 equal installments, the first installment to be paid on or before March 31st, and the second installment to be paid on or before September 15th.

(2) BID taxes for the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period shall be collected through a special bill, if the relevant BID application requests such a special bill, to be mailed by the District or its contractee within 30 days of the effective date of the BID tax with such special bill due for payment 45 days from the date of such special bill, or if the BID application does not request such a special bill, the BID taxes for such period of time shall be billed at the time of the next practicable regularly scheduled property tax bill pursuant to paragraph (1) of this subsection, along with any other BID taxes collectible at the time of such billing.

(f) If at any time after the dates provided by subsection (e) of this section any BID tax is not paid within the time prescribed, there shall be added to the BID tax a penalty of 10% of the unpaid amount plus interest on the unpaid amount at the rate of 1 ½% per month or portion of a month until the BID tax is paid.

(g) If any BID tax shall remain unpaid after the expiration of 60 days from the date such tax became due, the property subject to such BID tax may be sold at the next ensuing tax sale in the same manner and under the same conditions as property sold for delinquent real property taxes, if such BID taxes with interest and penalties thereon shall not have been paid in full prior to said sale. If an accounting is made in accordance with, and subject to, § 47-1340(f), the proceeds from such sale shall be applied towards such delinquent BID taxes together with interest and penalties thereon, including costs associated with such sale; provided, that the proceeds from such sale shall be applied first to any delinquent real property taxes (and penalties and costs associated therewith), and then, to the extent a required accounting is made in accordance with § 47-1340(f), in the following order of priority: any delinquent water and sewer charges; and any delinquent litter control nuisance fines, in accordance, respectively, with §§ 47-1304.4, 34-2407.02, 34-211 and 8-807. The proceeds shall then be applied towards any other delinquent tax, aside from the BID tax, owed by the owner of such property. The proceeds due for such delinquent BID taxes with interest and penalties thereon shall then be delivered to the collection agent for deposit into the relevant special account within 30 business days of its receipt by the District or the BID pursuant to § 2-1215.17.

(h) The Treasurer of the District shall establish a special account of the District for each BID registered pursuant to § 2-1215.06. Each such special account shall be established by the Treasurer within 20 days of the date of the BID's registration pursuant to § 2-1215.06.

(1) Within 10 business days of the date of establishment of any such special account, the Treasurer shall contract with the existing real property tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Upon the termination of any such contract, the District shall contract with the successor tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Such transactions shall not be subject to Chapter 2 of this title.

(2) Each special account created pursuant to this section shall consist solely of funds deposited pursuant to this section, which funds shall at no time be commingled with the general fund or any other fund of the District. The following shall be deposited into the special account associated with a BID within 3 business days of its receipt by the collection agent:

(A) All BID taxes collected pursuant to subsections (a) through (e) of this section;

(B) All penalties and interest collected pursuant to subsection (f) of this section; and

(C) Any proceeds from collections pursuant to subsection (g) of this section.

(3) The funds received as payment of a BID tax shall be applied first towards any real property taxes owed and to any delinquent real property taxes (and penalties and costs associated therewith) in the manner described by § 47-1303.04(g), before such payment is applied to the BID tax and any associated penalty and interest.

(i) The District may recover costs from the special accounts only as specifically provided by this subsection. Any recovery of funds from a special account shall be only by payment from the collection agent to the District.

(1) The collection agent shall make a payment to the District equal to the amount of any tax refund associated with such special account that the District documents is required pursuant to District law; provided, that to the extent that a special account lacks the funds needed to make a payment pursuant to this paragraph, the collection agent shall make said payment to the District as soon as sufficient funds are deposited into such special account; provided further, that a BID corporation shall have standing to participate in any administrative proceeding or to intervene in any judicial proceeding for the refund of BID taxes associated with such BID.

(2) The collection agent shall make a monthly accounting to each BID of any payments to the District from the special account associated with that BID.

(j) Each month, prior to the 5th day of the month, the collection agent shall make a payment to the BID associated with the special account, which

payment shall consist of all of the funds in such account as of the end of the final day of the preceding calendar month; provided, that the collection agent shall first provide for the payment of costs pursuant to subsection (i) of this section; provided further, that the collection agent shall withhold a portion of such funds, not to exceed 2% of the total annual BID taxes associated with such account when the BID taxes are based on assessed value or ½ of 1% of the total annual BID taxes associated with such account when BID taxes are based on square footage or per building, that the Treasurer of the District finds is needed as a reserve fund to pay any tax refund that may be required pursuant to District law.

(k) Each month, the collection agent shall provide a statement regarding the transactions in such special account to the Treasurer of the District and to the BID associated with such special account.

(l)(1) No funds may be withdrawn from a special account established pursuant to this section except as specifically provided in subsections (i) and (j) of this section. The District and the collection agent shall not pledge the funds in any special account established pursuant to this section under any circumstances, except that the funds in any such account shall be pledged if and when requested by the BID associated with such account as security for bonds or other borrowing by such BID.

(2) Authority to obligate or expend any taxes collected pursuant to this subchapter shall be subject to the appropriations process.

(m) The BID shall be the beneficial owner of the funds in the special account associated with that BID.

(May 29, 1996, D.C. Law 11-134, § 15, 43 DCR 1684; renumbered as § 16, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 12, 2000, D.C. Law 13-91, § 127, 47 DCR 520; Apr. 12, 2000, D.C. Law 13-91, § 127, 47 DCR 520; June 9, 2001, D.C. Law 13-305, § 508(a),)

Section references. — This section is referred to in §§ 2-1215.09 and 2-1215.17.

Prior Codifications. — 1981 Ed., § 1-2285.

Effect of amendments. — D.C. Law 13-91, in subsec. (g), in the second sentence, substituted “47-1303.4 [§ 47-1303.04, 2001 Ed.]” for “47-1304.4”; and in par. (h)(3), substituted “47-1303.4(g) [§ 47-1303.04(g), 2001 Ed.]” for “47-1304.4(g)”.

D.C. Law 13-305 rewrote the second sentence of subsec. (g) which had read: “The proceeds from such sale shall be applied towards such delinquent BID taxes together with interest and penalties thereon, including costs associated with such sale; provided, that the proceeds from such sale shall be applied first towards any delinquent real property taxes (and penalties and costs associated therewith), and then towards any delinquent water and sewer charges, and then towards any delinquent litter control nuisance fines, in accordance, respectively, with § 47-1303.04, §§ 34-2407.02 and 34-2110, and § 8-807.”

Temporary Amendment of Section. — For

temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

For temporary (225 day) amendment of section, see § 8(a) of the Real Property Tax Clarity and Litter Control Administration Temporary Amendment Act of 2001 (D.C. Law 14-8, June 13, 2001, law notification 48 DCR 5916).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

For temporary (90 day) amendment of section, see § 8(a) of Real Property Tax Clarity and Litter Control Administration Emergency Act of 2001 (D.C. Act 14-22, March 16, 2001, 48 DCR 2706).

For temporary (90 day) amendment of sec-

tion, see § 2(a) of Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

Legislative history of Law 13-305. — Law 13-305, the “Tax Clarity Act of 2001”, was introduced in Council and assigned Bill No. 13-501, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 3, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2001, it was assigned Act No. 13-501 and transmitted to Both Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

§ 2-1215.16. Additional authority and duties of BIDs; dispute resolution.

(a) A BID’s authority shall include any powers possessed by a nonprofit corporation organized pursuant to District law, including, but not limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, to carry over funds from one fiscal year to the next, and to borrow money or issue bonds. Any agency or independent agency of the District, as those terms are defined in § 1-603.01, shall acknowledge and recognize the unique characteristics of a BID corporation.

(b) A BID shall make a payment to the District to cover any reasonable marginal costs the District documents to the BID it has incurred in collecting the BID tax associated with such BID. If the District is unable to allocate a marginal cost to a particular BID, the District may allocate such costs between the BIDs associated with such marginal costs; provided, that any such allocation shall be based, to the extent practicable, on the equitable benefit received by each BID from such costs.

(c) In addition to the obligation to pay the BID tax, if any owner requests a special capital improvement or service of a nature above the level of improvements or services provided generally by the BID within the BID area, such owner shall be specially charged, in accordance with such reasonable provisions as the BID Board may determine, to reflect the benefit received by such owner from such special capital improvement or service. Such special charge shall constitute the personal obligation of the property owner involved and shall be payable directly to the BID and may be deposited directly into a bank account established by the BID. Such special charges shall not be construed as a BID tax. The contract for any such special capital improvement or service valued in excess of \$1,000 shall be approved by a majority vote of the disinterested members of the Board.

(d) In the event disputes arise with respect to any charge pursuant to this section or any activity conducted by a BID, such disputes shall be resolved through mediation, or, if mediation is unsuccessful, arbitration in accordance with the rules of the American Arbitration Association or such other reputable organization as is generally recognized as providing arbitration services as determined by the BID bylaws. Any party to such arbitration shall have the right to initiate judicial proceedings to enforce any award or decision made

pursuant to arbitration, but no person shall be authorized to institute judicial proceedings with respect to the matters referred to in this subsection except to enforce an arbitration award. Residents of a residential neighborhood adjoining a BID and citizens associations covering an area in which a BID is located shall be entitled to seek relief under this section.

(e) A BID shall have a lien on any property on which a capital improvement is made pursuant to subsection (c) of this section and such lien shall be enforced and shall have the same priority as a mechanics lien provided that the BID complies with the procedural mechanisms governing mechanics liens under District law.

(f) The Mayor shall charge a reasonable fee to the proposed BID applicant to cover costs incurred by the District Government associated with processing BID applications and holding administrative hearings.

(May 29, 1996, D.C. Law 11-134, § 16, 43 DCR 1684; renumbered as § 17, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2286.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.17. Civil action for BID taxes.

(a) The BID corporation through its counsel may file suit in the Superior Court of the District of Columbia against any property owner with delinquent BID taxes that are at least 120 days overdue. Such a suit may seek as damages any delinquent BID taxes, including penalties and interest owed to the District under § 2-1215.15(e) and the BID's reasonable attorneys fees. Such a suit shall be brought in the name of the District of Columbia.

(b) Any judgment obtained pursuant to subsection (a) of this section may not be waived or reduced by the District and may only be satisfied by the payment to the District of the full amount of the judgment or by the sale of the relevant property at a tax sale.

(c) A BID obtaining a judgment in a suit filed pursuant to subsection (a) of this section shall have the authority to execute this judgment in the name of the District using any method of execution authorized by District law, including, but not limited to, the authority to record such judgment with the Recorder of Deeds of the District, file a creditor's bill to sell real estate to satisfy a judgment, seek any writ of attachment, fieri facias, distringas, or replevin, and seek condemnation under such writs.

(d) Any funds obtained by the BID as a result of subsection (e) of this section shall be turned over to the Treasurer of the District within 3 business days.

The Treasurer shall disburse such funds in accordance with the priorities and procedures set forth in § 2-1215.15(g).

(e) An action pursuant to this section shall not be construed as a bar to action by the District to collect a delinquent BID tax under § 2-1215.15(g).

(f) An action pursuant to this section shall be dismissed by the Superior Court if notice and evidence thereof is provided to the Court that the District has sold the subject property at a tax sale.

(May 29, 1996, D.C. Law 11-134, § 17, 43 DCR 1684; renumbered as § 18, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Section references. — This section is referred to in § 2-1215.15.

Prior Codifications. — 1981 Ed., § 1-2287.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improve-

ment Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.18. Term of BID; extension; termination and dissolution.

(a) Each BID shall have an initial term which shall end on the last day of the 5th full fiscal year of the District during which the BID has been registered pursuant to § 2-1215.06. A BID may be extended for successive 5-year terms after the Mayor issues a notice or re-registration after holding a public hearing pursuant to the provisions of § 2-1215.06. In order to request an extension, the BID shall notify the Mayor at least 180 days prior to the end of the BID's term that it desires to extend its status as a registered BID for a 5-year term. The Mayor shall hold such public hearing no earlier than 120 days prior to the end of such fiscal year, and no later than 30 days prior to the end of such fiscal year. If, at the end of the fiscal year, the BID has requested an extension and the Mayor has not issued an order revoking registration or denying an extension, then the BID shall be deemed to be re-registered for a subsequent 5-year term.

(b) The Mayor shall issue an order revoking the registration of a BID at any time if:

(1) By a $\frac{2}{3}$ majority vote of the Board, the Board elects not to seek re-registration of the BID;

(2) Not more than one year and not less than 90 days before the end of each 5-year period, the owners of at least 51% in assessed value of nonexempt real property and at least 25% in number of nonexempt real properties within the BID elect to dissolve the BID effective as of the last day of the then applicable 5-year term;

(3) The Mayor determines that there has been unlawful conduct by the

management or Board of the BID, which conduct has not been remedied within 30 days of notice thereof;

(4) The Mayor determines that the conduct of the BID has jeopardized the ability of the BID to carry out the purposes of this subchapter, which conduct has not been remedied within 30 days of notice thereof;

(5) The BID corporation is voluntarily or involuntarily dissolved in accordance with law;

(6) The operations of the BID cease for any reason for at least 60 consecutive days at any time after the initial organizational period of 120 days; or

(7) A BID corporation voluntarily files for bankruptcy protection, becomes insolvent, or has a receiver appointed for all or substantially all of its assets, or any such proceeding is instituted against the BID corporation and is not discharged within 60 days.

(c) Within 60 days of dissolution, the Board shall adopt a plan to timely distribute funds and dispose of assets to satisfy all creditors in the order of their priority, if any. Any surplus funds, including the proceeds of the sale of all real and personal property, shall be returned to the owners in proportion to their obligation to pay BID taxes within 30 days of adoption of the plan of distribution.

(May 29, 1996, D.C. Law 11-134, § 18, 43 DCR 1684; renumbered as § 19, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2288.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Section 2 of D.C. Law 18-306 added subsec. (d) to read as follows:

“(d) Notwithstanding the provisions of subsection (a) of this section, the Board of the Adams Morgan BID may give notice under subsection (a) of this section up until, but no later than, December 31, 2010. Any approved re-registration under this act shall be for a term beginning October 1, 2010.”

Section 4(b) of D.C. Law 18-306 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

For temporary (90 day) amendment of section, see § 2 of Extension of Time Emergency Amendment Act of 2010 (D.C. Act 18-605, November 17, 2010, 57 DCR 11050).

For temporary (90 day) amendment of section, see § 2 of Extension of Time Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-10, February 11, 2011, 58 DCR 1429).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

Mayor's Orders. — Extension of the term of the Golden Triangle Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, see Mayor's Order 2003-130, September 11, 2003 (50 DCR 8036).

§ 2-1215.19. Prohibited acts.

No BID corporation shall engage in the financial support of political activities and candidates, lobbying on legislative or administrative actions

with respect to any property or area, or the promotion of one business to the exclusion of others. Nothing contained within this subchapter shall be construed as modifying the terms of any lease or occupancy agreement between an owner and commercial tenant.

(May 29, 1996, D.C. Law 11-134, § 19, 43 DCR 1684; renumbered as § 20, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2289.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.20. Maintenance of base level of city services.

The District government shall not eliminate or reduce the level of any services customarily provided in the District to any similar geographic area because such area is subject to a BID, and shall continue to provide its customary services and levels of each service to such area notwithstanding that such area is or may be encompassed in a BID unless a reduction in service is part of a District-wide pro rata reduction in services necessitated by fiscal considerations or budgetary priorities.

(May 29, 1996, D.C. Law 11-134, § 20, 43 DCR 1684; renumbered as § 21, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2290.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improvement Districts Congressional Review Emer-

gency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.21. Exempt property owners; BID membership.

The District government, the federal government, or any property owner owning exempt real property located in the BID may, at their sole discretion, contribute money to the BID. Such exempt real property owners who voluntarily make a payment to the BID in lieu of a BID tax shall be entitled to membership in the BID and services provided to the properties in the BID.

Nothing in this subchapter shall either compel or prohibit such exempt real property owners from contributing BID taxes, becoming BID members, or receiving BID services.

(May 29, 1996, D.C. Law 11-134, § 21, 43 DCR 1684; renumbered as § 22, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Section references. — This section is referred to in § 2-1215.02.

Prior Codifications. — 1981 Ed., § 1-2291.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improve-

ment Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

§ 2-1215.22. Rulemaking.

Pursuant to Chapter 5 of this title, the Mayor is authorized to issue any rules that may be necessary to implement the provisions of this subchapter, which shall include a fee to cover the administrative costs of processing a BID application and holding a public hearing. No delay in issuing any rules beyond 120 days after May 29, 1996, shall prevent an applicant from filing an application with the Mayor, or prevent the Mayor from registering a BID.

(May 29, 1996, D.C. Law 11-134, § 22, 43 DCR 1684; renumbered as § 23, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320.)

Prior Codifications. — 1981 Ed., § 1-2292.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23, September 23, 1997, law notification 44 DCR 5762).

Emergency legislation. — For temporary amendment of section, see § 2 of the Business Improvement Districts Emergency Amendment Act of 1997 (D.C. Act 12-89, June 19, 1997, 44 DCR 3747), and § 2 of the Business Improve-

ment Districts Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-146, August 12, 1997, 44 DCR 5054).

Legislative history of Law 11-134. — For legislative history of D.C. Law 11-134, see Historical and Statutory Notes following § 2-1215.01.

Legislative history of Law 12-26. — For legislative history of D.C. Law 12-26, see Historical and Statutory Notes following § 2-1215.01.

Expiration of Law 11-134. — See Historical and Statutory Notes following § 2-1215.01.

PART B.

BID FORMATIONS.

§ 2-1215.51. Downtown BID.

(a) The formation of the Downtown BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this

section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Downtown BID shall be comprised of all nonexempt real property within the following areas:

(1) The geographic area bounded by a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.W., and the western edge of I-395; and continues south along the western edge of I-395 to the center of D Street, N.W.; and continues east along the center of D Street, N.W., to the eastern edge of the Department of Labor Building; and continues south along the eastern edge of the Department of Labor Building to the center of C Street, N.W.; and continues west along the center of C Street, N.W., to the center of 2nd Street, N.W.; and continues south along the center of 2nd Street, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of 15th Street, N.W.; and continues north along the center line of 15th Street, N.W., to the center of Pennsylvania Avenue, N.W.; and continues west along the center line of Pennsylvania Avenue, N.W., to the western property line of 1503 Pennsylvania Avenue, N.W.; and continues north along the building edge of 1503 Pennsylvania Avenue, N.W., to the center of the north-south alley in Square 221; and continues north along the center line of the north-south alley in Square 221 to the center of H Street, N.W.; and continues west along the center line of H Street, N.W., to the center of 16th Street, N.W.; and continues north along the center line of 16th Street, N.W., to the southern edge of Thomas Circle; and continues counterclockwise around the center line of Thomas Circle to the center point of Massachusetts Avenue, N.W.; and continues southeast along the center line of Massachusetts Avenue, N.W., to the center of 9th Street, N.W.; and continues north along the center line of 9th Street, N.W., to the center of N Street, N.W.; and continues east along the center line of N Street, N.W., to the center of the north-south alley in Square 424; and continues south along the center line of the north-south alley in Square 424 to the center of M Street N.W.; and continues east along M Street N.W., to the center of 7th Street, N.W.; and continues south along the center line of 7th Street, N.W., to the center of K Street, N.W.; and continues east along the center line of K Street, N.W., to the center of 6th Street, N.W.; and continues south along the center line of 6th Street, N.W., to the center of Massachusetts Avenue, N.W.; and continues east along the center line of Massachusetts Avenue, N.W., to the center of the street at the intersection of Massachusetts Avenue and the western edge of I-395, is hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this subchapter or the earlier termination or dissolution of the BID, subject to the requirements of this subchapter, including the BID application and BID registration procedures established pursuant to §§ 2-1215.04(a), 2-1215.05, and 2-1215.06.

(2) The geographic area bounded by a line that starts at the intersection of the center of Massachusetts Avenue, N.W., and the western edge of I-395; and continues southeast along the center of Massachusetts Avenue, N.W., to the center of North Capitol Street; continues north along the center of North

Capitol Street to the center of K Street; and continues east along the center of K Street, N.E., to the eastern edge of the eastern sidewalk on First Street, N.E.; and continues south along the eastern edge of the eastern sidewalk on First Street, N.E., to the center of Massachusetts Avenue, N.E.; and continues northwest along the center line of Massachusetts Avenue, N.E., to the center of North Capitol Street; and continues south along the center line of North Capitol Street to the center line of Louisiana Avenue; and continues southwest along the center line of Louisiana Avenue, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of Second Street, N.W.; and continues north along the center line of Second Street, N.W., to the center of C Street, N.W.; and continues west along the center line of C Street, N.W., to the eastern edge of the Department of Labor Building; and continues north along the eastern edge of the Department of Labor Building to the center of D Street, N.W.; and continues west along the center line of D Street, N.W., to the western edge of I-395; and continues north along the western edge of I-395 to the center of Massachusetts Avenue, N.W. (the starting point).

(c)(1) The BID taxes for nonexempt real properties in the Downtown BID shall be:

(A) The amount of \$.149835 per square foot for each net rentable square foot for improved Class 4 Properties where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to the District and shall be calculated by the owner using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

(B) The amount of \$.149835 per square foot for each equivalent net rentable square foot of improvements for improved Class 4 Properties for any property where the Office of Taxation and Revenue does not have records indicating the net rentable area of the property, and for improved Class 5 Properties. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall be determined using records provided by the Office of Taxation and Revenue;

(C) The amount of \$74.215 per hotel room for Class 3 Properties; and

(D) The amount of \$.149835 per square foot of land area for all unimproved Class 4 Properties, and all improved Class 4 Properties that are surface parking lots, and all unimproved Class 5 Properties. Land area shall be determined using records provided by the Office of Taxation and Revenue;

(2) A 3% annual increase in the BID taxes over the current tax year rates specified in subsection (a) of this section is hereby authorized and imposed subject to the requirements of § 2-1215.08(b).

(May 29, 1996, D.C. Law 11-134, § 201, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637; Sept. 11, 2008, D.C. Law 17-227, § 2, 55 DCR 8305.)

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

D.C. Law 17-227, in subsec. (c)(1), substituted "The amount of \$.149835" for "Fourteen cents" in subpars. (A), (B), and (D), and substituted "The amount of \$74.215" for "Sixty dollars" in subpar. (C).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

Legislative history of Law 15-257. — Law 15-257, the "Business Improvement Districts and Anacostia Waterfront Corporation Clarification Amendment Act of 2004", was introduced in Council and assigned Bill No 15-717, which was referred to Committee of Economic Devel-

opment. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-632 and transmitted to both Houses of Congress for its review. D.C. Law 15-257 became effective on March 17, 2005.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Editor's notes. — Section 3 of D.C. Law 17-227 provided:

"Sec. 3. Applicability.

"(a) Section 2(a), (b), and (d) shall apply as of October 1, 2007.

"(b) Section 2(c) shall apply as of April 1, 2008."

§ 2-1215.52. Golden Triangle BID.

(a) The formation of the Golden Triangle BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Golden Triangle BID shall be comprised of all nonexempt real property within the following areas:

(1) Square 70, Lot 195; Square 72, Lots 75 and 76; Square 73, Lots 80, 82, 84, 800, 858, and 876; Square 74, Lots 832 and 840; all of Squares 76, 78, 78s, 85, and 86; Square 99, Lots 49, 50, 52, and 53; all of Squares 100, 105, 106, and 107; Square 115, Lots 79, 81, 82, 84, and 85; all of Squares 116, 117, 118, 126, 127, 137, 138, 139, and 140; Square 159, Lots 75, 76, 82, 84, 814, 815, 816, and 855; all of Squares 160, 161, 162, 163, 164, and 165; Square 182, Lots 827 and 828; Square 183, Lots 91, 105, 106, 107, 111, 847, 857, 879, 880, and 881; Square 184, Lots 3, 69, 71, 804, 805, 842, 845, 849, 855, and 856; all of Squares 185 and 186; and Farragut Square.

(2) Square 166, Lots 32, 33, 38, 41, 841, 859, and 7000; Square 168, Lots 50, 51, and 823; and Square 169, Lots 70 and 71."

(3) Square 166, Lot 42.

(c)(1) For the purposes of this subsection, the terms "Class 2 Property" and "Class 3 Property" shall have the same meanings as provided in § 47-813, as such provision is in effect on August 15, 2008.

(2) The BID taxes for nonexempt real properties in the Golden Triangle BID shall be:

(A) For tax years 2009 and 2010:

(i)(I) Eleven cents for each net rentable square foot of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the owner is required to report net rentable area to the Office of Tax and Revenue or for which the Office of Tax and Revenue has records indicating the net rentable area of the property.

(II) Net rentable square feet shall be the number of net rentable square feet reported to, or on record with, the Office of Tax and Revenue;

(ii)(I) Eleven cents for each equivalent net rentable square foot of improvements of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the owner is not required to report net rentable area to the Office of Tax and Revenue and for which the Office of Tax and Revenue maintains no record of net rentable area.

(II) Equivalent net rentable area shall be 90% of the gross building area.

(III) Gross building area shall be determined using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring gross building area; and

(iii)(I) Eight cents for each equivalent net rentable square foot of improvements of hotels.

(II) Equivalent net rentable areas shall be 90% of the gross building area; and

(B) For tax years 2011 and thereafter:

(i)(I) Fourteen and one-half cents for each net rentable square foot of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the owner is required to report net rentable area to the Office of Tax and Revenue or for which the Office of Tax and Revenue has records indicating the net rentable area of the property.

(II) Net rentable square feet shall be the number of net rentable square feet reported to, or on record with, the Office of Tax and Revenue;

(ii)(I) Fourteen and one-half cents for each equivalent net rentable square foot of improvements of improved Class 2 Property and Class 3 Property, excluding hotels, for any property for which the owner is not required to report net rentable area to the Office of Tax and Revenue and for which the Office of Tax and Revenue maintains no record of net rentable area.

(II) Equivalent net rentable area shall be 90% of the gross building area; and

(iii)(I) Eleven and one-half cents for each equivalent net rentable square foot of improvements of hotels.

(II) Equivalent net rentable areas shall be 90% of the gross building area.

(May 29, 1996, D.C. Law 11-134, § 202, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637; Aug. 15, 2008, D.C. Law 17-212, § 2, 55 DCR 6987.)

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

D.C. Law 17-212 added subsec. (b)(3); and rewrote subsec. (c).

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.51.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Legislative history of Law 17-212. — Law

17-212, the “Golden Triangle BID Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-597 which was referred to Finance and Revenue. The Bill was adopted on first and second readings on May 6, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 18, 2008, it was assigned Act No. 17-408 and transmitted to both Houses of Congress for its review. D.C. Law 17-212 became effective on August 15, 2008.

§ 2-1215.53. Georgetown BID.

(a) The formation of the Georgetown BID, which shall include all nonexempt real property zoned C or W under applicable District zoning law within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Georgetown BID shall be comprised of all nonexempt real property zoned C or W under applicable District zoning law within the following areas: along the northern boundary of M Street, N.W., between the western terminus of the Rock Creek bridge on the east and the eastern boundary of Georgetown University on the west; along 28th Street, N.W., between M Street, N.W., and Olive Street, N.W.; along 29th Street, N.W., and 30th Street, N.W., in each instance between the M Street, N.W., and Olive Street, N.W.; along 31st Street, N.W., between M Street N.W., and N Street, N.W.; along Potomac Street, N.W., 33rd Street, N.W., Bank Street, N.W., 34th Street, N.W., and 35th Street, N.W., in each instance between M Street, N.W., and Prospect Street, N.W.; along Prospect Street, N.W., between Wisconsin Avenue, N.W., and Potomac Street, N.W.; along N Street, N.W., between 31st Street, N.W., and Potomac Street, N.W.; along O Street, N.W., between 31st Street, N.W., and Potomac Street, N.W.; along Dumbarton Street, N.W., between 31st Street, N.W., and Wisconsin Avenue, N.W.; along P Street, N.W., between 32nd Street, N.W., and 33rd Street, N.W.; along Volta Street, N.W., between Wisconsin Avenue, N.W., and 33rd Street, N.W.; along Q Street, N.W., between 32nd Street, N.W., and 33rd Street, N.W.; along 33rd Street, N.W., between Dent Place, N.W., and Wisconsin Avenue, N.W.; along Reservoir Road, N.W., between 32nd Street, N.W., and 34th Street, N.W.; along R Street, N.W., between 32nd Street, N.W., and 34th Street, N.W.; along Wisconsin Avenue, N.W., between M Street, N.W., and R Street, N.W., and within the area bounded on the north by the southern boundary of M Street, N.W., on the east by Rock Creek, on the west by Key Bridge, and on the south by the Potomac River, which area also includes that portion of Pennsylvania Avenue, N.W., between 29th Street, N.W., and Rock Creek.

(c)(1) The BID taxes for nonexempt real properties zoned C or W under applicable District zoning law in the Georgetown BID shall be:

(A) Fifteen cents per \$100 of the assessed value of all nonexempt properties and all nonexempt portions of mixed use properties for each Class 3, 4, 5 and 9 nonexempt property within the described geographic area, and for each Class 6, 7, 8, 10, 11, and 12 mixed use property within the described geographic area for which an assessed value for the nonexempt portion of such property reasonably is ascertainable from District tax records; and

(B) Fifteen cents per \$100 of assessed value of all nonexempt portions for Class 6, 7, 8, 10, 11, and 12 mixed use property within the described geographic area for which an assessed value for the nonexempt portion of such property reasonably is not ascertainable from District tax records, determined as follows:

(i) The aggregate square foot area for that portion of a mixed use property which is Class 3, 4, or 5 shall be adjusted in each instance by multiplying such square foot area by a factor of 2.7 (which adjusted square footage is referred to herein as the “Adjusted Nonexempt Area”); and

(ii) The nonexempt portion of a mixed use property shall be deemed to be an adjusted fraction, the numerator of which shall be the Adjusted Nonexempt Area and the denominator of which shall be the Adjusted Nonexempt Area plus the square foot area for the residential portion of such mixed use property (which fraction is referred to herein as the “Adjusted Nonexempt Portion”); and

(iii) The assessed value of each such mixed use property for purposes of the BID tax shall be deemed to be the Adjusted Nonexempt Portion thereof.

(2) For the purposes of determining the BID tax under paragraphs (1) of this subsection, the “assessed value” of each nonexempt property and each mixed use property for the entire 5-year term of the BID shall be fixed at the assessed value of each such property as it appears on the assessment roll of the District of Columbia as of the date of registration of the BID and irrespective of any subsequent reassessment, subject however, to the express exception that the “assessed value” of any nonexempt property and any mixed use property shall increase based upon and effective as of any reassessment by the District of Columbia following either (A) a sale of any property or (B) a reclassification of any property from Class 5 (vacant land and vacant buildings) to a nonexempt property or a mixed use property or a reclassification of any exempt property, or any residential portion of any mixed use property, to a nonexempt property.

(3) A 5% annual increase in the BID taxes over the current tax year rates specified in subsection (a) of this section is hereby authorized and imposed subject to the requirements of § 2-1215.08(b).

(May 29, 1996, D.C. Law 11-134, § 203, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637.)

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.51.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Mayor’s Orders. — Extension of the term of the Georgetown Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq. (2003 Supp.)), see Mayor’s Order 2004-173, October 20, 2004 (51 DCR 10495).

§ 2-1215.54. Capitol Hill BID.

(a) The formation of the Capitol Hill BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Capitol Hill BID shall be comprised of the following areas:

(1) The geographic area bounded by a line beginning at the intersection of the center line of 3rd Street, N.W., and Constitution Avenue, N.W.; continuing east along the center line of Constitution Avenue, N.W., to the center line of Louisiana Avenue, N.W.; continuing northeast along the center line of Louisiana Avenue, N.W., to the center line of North Capitol Street; continuing north along the center line of North Capitol Street to the center line of Massachusetts Avenue; continuing southeast along the center line of Massachusetts Avenue, N.E., to the eastern edge of the sidewalk of 1st Street, N.E.; continuing north along the eastern edge of the sidewalk of 1st Street, N.E., to the center line of H Street, N.E.; continuing east on the center line of H Street, N.E., to the center line between 2nd Street, N.E., and 3rd Street, N.E.; continuing south along the center line between 2nd Street, N.E., and 3rd Street, N.E., to the center line between D Street, N.E., and E Street, N.E. (deviating, if necessary, so as to include alley properties and the Capitol Courts complex); continuing east along the center line between D Street, N.E., and E Street, N.E., to the center line of 4th Street, N.E.; continuing south along the center line of 4th Street, N.E., to the center line of D Street, N.E.; continuing east along the center line of D Street, N.E., to the center line between 6th Street, N.E., and 7th Street, N.E.; continuing south along the center line between 6th Street, N.E., and 7th Street, N.E., to the center line between C Street, N.E., and Constitution Avenue, N.E.; continuing west along the center line between C Street, N.E., and Constitution Avenue, N.E., to the center line between 3rd Street, N.E., and 4th Street, N.E. (having moved south along the center line of 6th Street, N.E., and north along the center line of 4th Street, N.E., so as to remain along the center line between C Street, N.E., and Constitution Avenue, N.E.); continuing south along the center line between 3rd Street, N.E., and 4th Street, N.E., to the center line between A Street, N.E., and East Capitol Street; continuing east along the center line between A Street, N.E., and East Capitol Street, to the center line between 5th Street, N.E., and 6th Street, N.E.; continuing south along the center line between 5th Street, N.E., and 6th Street, N.E., to the center line of East Capitol Street; continuing south along the center line between 5th Street, S.E., and 6th Street, S.E., to the center line between A Street, S.E., and East Capitol Street; continuing west along the center line between A Street, S.E., and East Capitol Street, to the center line between 3rd Street, S.E., and 4th Street, S.E.; continuing south along the center line between 3rd Street, S.E., and 4th Street, S.E., to the center line of Independence Avenue, S.E.; continuing east along the center line of Independence Avenue, S.E. to the center line of 4th Street, S.E.; continuing south along the center line of 4th Street, S.E., to the center line of North Carolina Avenue, S.E.; continuing southwest along the center line of North Carolina Avenue, S.E., to the center line of 3rd Street, S.E. (that point being the intersection of 3rd Street, S.E., and D Street, S.E.); continuing west along the center line of D Street, S.E., to the center line of 2nd Street, S.E.; continuing south along the center line of 2nd Street, S.E., to the center line of North Carolina Avenue, S.E.; continuing southwest along the center line of North Carolina Avenue, S.E., to the center line of E Street, S.E.; continuing west along the center line of E Street, S.E., to the center line of Canal Street, S.E.; continuing northwest

along the center line of Canal Street, S.E., to the center line of South Capitol Street; continuing northwest along the center line of Washington Avenue, S.W. (the continuation of Canal Street) to the center line of Independence Avenue, S.W.; continuing west along the center line of Independence Avenue, S.W., to the center line of 3rd Street, S.W.; continuing north along the center line of 3rd Street, S.W., and then along the center line of 3rd Street, N.W., to the center line of Constitution Avenue, N.W. (the beginning point);

(2)(A) Pennsylvania Avenue, S.E., from the center line of 4th Street, S.E., to the center line of 17th Street, S.E. (Barney Circle); and

(B) The lots abutting the section of Pennsylvania Avenue, S.E., set forth in subparagraph (A) of this paragraph;

(3)(A) D Street, S.E., from the center line of 7th Street, S.E., to the center line of 9th Street, S.E., and the lots abutting that section of D Street, S.E.; and

(B) The lots abutting the section of D Street, S.E., set forth in subparagraph (A) of this paragraph;

(4)(A) E Street, S.E., from the center line of 10th Street, S.E., to the center line of 12th Street, N.E.; and

(B) The lots abutting the section of E Street, S.E., set forth in subparagraph (A) of this paragraph;

(5)(A) G Street, S.E., from the center line of 13th Street, S.E., to the center line of 14th Street, S.E.; and

(B) The lots abutting the section of G Street, S.E., set forth in subparagraph (A) of this paragraph;

(6)(A) The portion of Potomac Avenue, S.E., north of its center line, from the center line of 13th Street, S.E., to the northern intersection of 13th Street, S.E., with the center line of Pennsylvania Avenue, S.E.; and

(B) The lots abutting the northern section of Potomac Avenue, S.E., set forth in subparagraph (A) of this paragraph;

(7) The geographic area bounded by a line beginning at the intersection of the center line of 6th Street, S.E., and the center line of Pennsylvania Avenue, S.E.; continuing north along the center line of 6th Street, S.E., to the center line of North Carolina Avenue, S.E.; continuing northeast along the center line of North Carolina Avenue, S.E., to the center line of 7th Street, S.E.; continuing north along the center line of 7th Street, S.E., to the center line between Independence Avenue, S.E., and A Street, S.E.; continuing east along the center line between Independence Avenue, S.E., and A Street, S.E., to the center line between 7th Street, N.E., and 8th Street, N.E.; continuing south along the center line between 7th Street, N.E., and 8th Street, N.E., to the center line of Pennsylvania Avenue, S.E.; continuing northwest along the center line of Pennsylvania Avenue, S.E., to the center line of 6th Street, S.E. (the beginning point); and

(8) The geographic area bounded by a line beginning at the intersection of the center line of 7th Street, S.E., and the center line of Pennsylvania Avenue, S.E.; continuing south along the center line of 7th Street, N.E., to the center line of I Street, S.E.; continuing east along the center line of I Street, S.E., to the center line between 8th Street, S.E., and 9th Street, S.E.; continuing north along the center line between 8th Street, S.E., and 9th Street, S.E., to the

center line between E Street, S.E., and G Street, S.E.; continuing east along the center line between E Street, S.E., and G Street, S.E., to the center line between 10th Street, S.E., and 11th Street, S.E.; continuing south along the center line between 10th Street, S.E., and 11th Street, S.E., to the northern border of the Southeast/Southwest Freeway; continuing east along the northern border of the Southeast/Southwest Freeway to the center line of 11th Street, S.E.; continuing north along the center line of 11th Street, S.E., to the center line of K Street, S.E.; continuing east along the center line of K Street, S.E., to the center line between 11th Street, S.E., and 12th Street, S.E.; continuing north along the center line between 11th Street, S.E., and 12th Street, S.E., to the center line of I Street, S.E.; continuing east along the center line of I Street, S.E., to the center line of 12th Street, S.E.; continuing north along the center line of 12th Street, S.E., to the center line of G Street, S.E.; continuing east along the center line of G Street, S.E., to the center line between 12th Street, S.E., and 13th Street, S.E.; continuing north along the center line between 12th Street, S.E., and 13th Street, S.E., to the center line of Pennsylvania Avenue, S.E.; continuing northwest along the center line of Pennsylvania Avenue, S.E., to the center line of 7th Street, S.E. (the beginning point).

(c)(1) The BID taxes for properties in the Capitol Hill BID shall be:

(A) Fifteen cents per \$100 of 90% of the assessed value of all nonexempt properties for which the District provides an integrated assessment of both the commercial and residential components; and

(B) Fifteen cents per \$100 of 100% of the assessed value of all nonexempt properties for which the District does not provide an integrated assessment of the commercial and residential components.

(2) Notwithstanding paragraph (1) of this subsection, the total BID tax due on a property or distinct assembly of properties (if the property occupies more than one taxable lot) in the Capitol Hill BID shall not exceed \$75,000.00 in any year.

(May 29, 1996, D.C. Law 11-134, § 204, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637.)

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.51.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

§ 2-1215.55. Mount Vernon Triangle BID.

(a) The formation of the Mount Vernon Triangle BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the expiration date of this act or the termination or dissolution of the BID.

(b) The Mount Vernon Triangle BID shall be comprised of the geographic area bounded by a line that begins at the center of the intersection of Seventh

Street, N.W., and New York Avenue, N.W.; and continues northeast down the middle of New York Avenue, N.W., until it reaches New Jersey Avenue, N.W.; and continues southeast down the middle of New Jersey Avenue, N.W., until it reaches Massachusetts Avenue, N.W.; and continues northwest down the middle of Massachusetts Avenue, N.W. until it reaches Sixth Street, N.W., and continues north down the middle of Sixth Street, N.W., until it reaches K Street, N.W.; and continues west down the middle of K Street, N.W., until it reaches Seventh Street, N.W.; and continues north down the middle of Seventh Street, N.W., until it reaches the center of the intersection of Seventh Street, N.W., and New York Avenue, N.W. (the beginning point).

(c)(1) The BID taxes for the nonexempt real properties in the Mount Vernon Triangle BID shall be:

(A) The amount of \$.35 per square foot of land;

(B) The amount of \$.15 per rentable square foot of commercial buildings; provided, that any supermarket that is receiving a tax incentive pursuant to § 47-3802 shall not be required to pay the BID tax during the term of the incentive;

(C) The amount of \$90 per hotel room annually; and

(D)(i) The amount of \$120 per unit annually for nonexempt residential properties.

(ii) If a residential unit is restricted to residents based upon income pursuant to a Federal or District affordable housing program, the BID tax due on the unit shall be computed by applying the percentage of area median income eligible residents must meet to participate in the affordable housing program to the amount of the BID tax which would otherwise be due.

(2) Subject to the requirements of § 2-1215.08, the BID taxes set forth in this subsection may be increased by 5%.

(May 29, 1996, D.C. Law 11-134, § 205, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637; Mar. 8, 2007, D.C. Law 16-246, § 2, 54 DCR 618; Mar. 25, 2009, D.C. Law 17-353, § 156, 56 DCR 1117.)

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

D.C. Law 16-246 rewrote subsec. (c) which had read as follows: “(c) The BID taxes for the nonexempt real properties in the Mount Vernon Triangle BID shall be 20 cents per square foot of land.”

D.C. Law 17-353 validated a previously made technical correction in subsec. (c)(2).

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.51.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Legislative history of Law 16-246. — Law 16-246, the “Mount Vernon Triangle BID Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-937, which was referred to Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28 2006, it was assigned Act No. 16-602 and transmitted to both Houses of Congress for its review. D.C. Law 16-246 became effective on March 8, 2007.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

§ 2-1215.56. Adams Morgan BID.

(a) Subject to review and approval by the Mayor under §§ 2-1215.05 and

2-1215.06, the formation of the Adams Morgan BID, including nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Adams Morgan BID shall be comprised of the geographic area along 17th Street, N.W., between Columbia Road, N.W., and Fuller Street, N.W.; along 18th Street, N.W., between Columbia Road, N.W., and Florida Avenue, N.W.; along Adams Mill Road, N.W., between Columbia Road, N.W., and Lanier Place, N.W.; along Belmont Road, N.W., between 18th Street, N.W., and Columbia Road, N.W.; along Biltmore Street, N.W., between Columbia Road, N.W., and Cliffbourne Place, N.W.; along California Street, N.W., between 18th Street, N.W., and Florida Avenue, N.W.; along Champlain Street, N.W., between Columbia Road, N.W., and Kalorama Road, N.W.; along Columbia Road, N.W., between 16th Street, N.W., and Wyoming Avenue, N.W.; along the north side of Florida Avenue, N.W., between 19th Street N.W., and California Street, N.W.; along Kalorama Road, N.W., between 18th Street, N.W., and Champlain Street, N.W.; along Lanier Place, N.W., between Ontario Road, N.W., and Adams Mill Road, N.W.; along Ontario Road, N.W., between Columbia Road, N.W., and Lanier Place, N.W.; along the north side of U Street, N.W., between 18th Street, N.W., and Florida Avenue, N.W.; along Vernon Street, N.W., between 18th Street, N.W., and 19th Street, N.W.; along Wyoming Avenue, N.W., between 19th Street, N.W., and Columbia Road, N.W.

(c) The BID taxes for the nonexempt real properties in the Adams Morgan BID shall be \$.21 for each \$100 in assessed value for all nonexempt properties and all commercial portions of mixed use properties.

(May 29, 1996, D.C. Law 11-134, § 206, as added by Mar. 8, 2006, D.C. Law 16-56, § 2(b), 53 DCR 10.)

Temporary Addition of Section. — For temporary (225 day) addition of section, see § 2(b) of the Adams Morgan Business Improvement District Temporary Amendment Act of 2005 (D.C. Law 16-16, Sept. 14, 2005, law notification 52 DCR 9774).

Emergency legislation. — For temporary (90 day) addition, see § 2(b) of Adams Morgan Business Improvement District Emergency Amendment Act of 2005 (D.C. Act 16-80, May 18, 2005, 52 DCR 5254).

For temporary (90 day) addition, see § 2(b) of Adams Morgan Business Improvement District Emergency Amendment Act of 2005 (D.C. Act 16-80, May 18, 2005, 52 DCR 5254).

For temporary (90 day) addition, see § 2(b) of Adams Morgan Business Improvement District Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-142, July 26, 2005, 52 DCR 7169).

Legislative history of Law 16-56. — For Law 16-56, see notes following § 2-1215.04.

Mayor's Orders. — Registration of the Adams Morgan Business Improvement District pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996, (D.C. Law 11-134; D.C. Official Code 2-1215.01 et seq. (2005 Supp.), see Mayor's Order 2005-121, August 22, 2005 (52 DCR 8663).

§ 2-1215.57. NoMa Improvement Association BID.

(a) Subject to review and approval by the Mayor under the provisions of §§ 2-1215.04 and 2-1215.05, the formation of the NoMa Improvement Association BID, including nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes

established in subsection (c) of this section are hereby imposed through the expiration date of this subchapter or the termination or dissolution of the BID.

(b)(1) The NoMa Improvement Association BID shall be comprised of the geographic area bounded by a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.E., and 1st Street, N.E.; continuing north along the center line of 1st Street, N.E., to the center line of H Street, N.E.; continuing east along the center line of H Street, N.E., to the center line of 2nd Street, N.E.; continuing north along the center line of 2nd Street, N.E., to the center line of K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of 3rd Street, N.E.; continuing north along the center line of 3rd Street, N.E. (and including Square 0774, Lot 0058), to the center line of M Street, N.E.; continuing east along the center line of M Street, N.E., to 4th Street, N.E.; continuing along the center line of 4th Street, N.E., to the center line of Florida Avenue, N.E.; continuing northwest along the center line of Florida Avenue, N.E., until it crosses the WMATA rail line; continuing northeast along the boundary of the WMATA rail line until it crosses R Street, N.E.; continuing west along the center line of R Street, N.E., to Eckington Place, N.E.; continuing south along the center line of Eckington Place, N.E., to the center line of Q Street, N.E.; continuing west along the center line of Q Street, N.E. (and including Square 3519, lots 0043, 0063, and 0070), to the center line of North Capitol Street (but excluding Square 3516, lots 0104 through 0114 and 0118 through 0133, and 0807); continuing south along the center line of North Capitol Street to the center line of Eye Street, N.W.; continuing west along the center line of Eye Street, N.W., to the center line of New Jersey Avenue, N.W.; continuing southeast along the center line of New Jersey Avenue, N.W., to the center line of Massachusetts Avenue, N.W., continuing southeast along Massachusetts Avenue, N.W., to the center line of 1st Street, N.E. (the starting point).

(2) Notwithstanding paragraph (1) of this subsection, any property within the NoMa Improvement Association BID geographic area that is also within the geographic area of the Downtown BID shall not be deemed part of the NoMa Improvement Association BID ("overlapping properties") until October 1, 2007, conditioned upon the receipt of a resolution of the Board of Directors of the Downtown BID agreeing to release any overlapping properties from the Downtown BID.

(c)(1) The BID taxes for the nonexempt real properties in the NoMa Improvement Association BID shall be:

(A) The amount of \$0.15 per rentable square foot for buildings of 50,000 square feet or more, which rate shall become effective one year after issuance of final certificate of occupancy; provided, that those buildings which have a certificate of occupancy or other District license for distribution, manufacturing, industrial, storage, or similar warehouse use shall be assessed at the rate set forth in subparagraph (B) of this paragraph;

(B) The amount of \$0.05 per \$100 of the prior year's assessed value of all buildings that are less than 50,000 square feet or other unimproved land;

(C) The amount of \$90 per hotel room annually; and

(D) The amount of \$120 per unit annually for nonexempt residential condominium properties.

(2) A 4% increase in the BID taxes over the current tax year rates specified in subsection (a) of this section is hereby authorized subject to the requirements of § 2-1215.08(b).

(May 29, 1996, D.C. Law 11-134, § 207, as added Mar. 8, 2007, D.C. Law 16-245, § 2(c), 54 DCR 615; Mar. 25, 2009, D.C. Law 17-353, § 190, 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-353 validated a previously made technical correction in subsec. (c)(2).

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 16-245. — For Law 16-245, see notes following § 2-1215.02.

§ 2-1215.58. Capitol Riverfront BID.

(a) Subject to review and approval by the Mayor under the provisions of §§ 2-1215.04 and 2-1215.05, the formation of the Capitol Riverfront BID, including nonexempt real property within the geographic area set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the expiration date of this act or the termination or dissolution of the BID.

(b) The Capitol Riverfront BID shall be comprised of the geographic area bounded by a line beginning at the intersection of an extension south of the center line of 2nd Street, S.W., and the northern bank of the Anacostia River; continuing north along extension of the center line of 2nd Street, S.W., to the center line of 2nd Street, S.W.; continuing north along the center line of 2nd Street, S.W., to the center line of Q Street, S.W.; continuing east along the center line of Q Street, S.W., to the center line of Half Street, S.W.; continuing north along the center line of Half Street, S.W., to the center line of P Street, S.W.; continuing east along the center line of P Street, S.W., to the center line of South Capitol Street; continuing north along the center line of South Capitol Street to the southern boundary of the Southeast-Southwest Freeway (I-395); continuing southeast along the southern boundary of the Southeast-Southwest Freeway (I-395) to the intersection of an extension south of the center line of 15th Street, S.E.; continuing south along the extension of the center line of 15th Street, S.E., to the northern bank of the Anacostia River; continuing southwest along the northern bank of the Anacostia River to the center line of 2nd Street, S.W.

(c)(1) The BID taxes for the nonexempt real properties in the Capitol Riverfront BID shall be:

(A) \$0.16 per square foot for commercial buildings greater or equal to 8,000 square feet, and \$0.09 per \$100 of assessed value for commercial buildings less than 8,000 square feet; provided, that the BID tax imposed on any such real property shall not exceed \$100,000 annually;

(B) \$120 per unit for residential units annually;

(C) \$95 per hotel room annually;

(D) \$0.16 per square foot for land or buildings with existing active industrial, utility, or storage use;

(E) \$0.08 per square foot for real property within the new proposed Frederick Douglass Memorial Bridge right-of-way; and

(F) \$0.36 per square foot for unimproved land that is up to 88,000 square feet, \$0.065 per square foot for unimproved land that is 88,000 to 200,000 square feet, and \$0.18 per square foot for unimproved land that is greater than 200,000 square feet; provided, that the BID tax imposed on any such unimproved land shall not exceed \$100,000 annually.

(2) To the extent that a building that is subject to the BID tax is constructed pursuant to a ground lease on land that is exempt from real property taxes, the assessed value of the real property for purposes of the BID tax shall include the value of the building and the leasehold interest, possessory interest, beneficial interest, or beneficial use of the land, and the lessee or user of the land shall be assessed the corresponding BID tax, which shall be a personal liability of the lessee. Delinquencies shall be collected in the same manner as possessory interest taxes under § 47-1005.01 or as otherwise provided in this subchapter.

(3) A 5% annual increase in the BID taxes over the current tax year rates specified in paragraph (1) of this subsection is authorized subject to the requirements of § 2-1215.08(b).

(4) For the purposes of this subsection, the real property located in Square 770, Lot 802, designated as the DOT PILOT Area under the DOT Pilot Revision Emergency Approval Resolution of 2006, effective October 18, 2006 (Res. 16-845; 53 DCR 8970), shall be deemed a nonexempt real property.

(May 29, 1996, D.C. Law 11-134, § 208, as added Oct. 18, 2007, D.C. Law 17-27, § 2(c), 54 DCR 8020; Mar. 25, 2009, D.C. Law 17-353, §§ 179, 219, 56 DCR 1117; July 13, 2012, D.C. Law 19-161, § 2, 59 DCR 5704.)

Effect of amendments. — D.C. Law 17-353 validated a previously made technical correction in subsec. (c)(3).

D.C. Law 19-161 rewrote subsec. (c)(1), which formerly read:

“(c)(1) The BID taxes for the nonexempt real properties in the Capitol Riverfront BID shall be:

“(A) The amount of \$0.09 per \$100 of the assessed value of real property containing less than 50,000 square feet of gross building area;

“(B) The amount of \$0.04 per \$100 of the assessed value of land and buildings which have a certificate of occupancy or other District license indicating that the land or building has an existing active industrial, utility, or storage use;

“(C) The amount of \$0.02 per \$100 of assessed value of land and buildings located, in whole or in part, within the right-of-way for the realignment of the Frederick Douglass Memorial Bridge;

“(D) The amount of \$0.12 per square foot of commercial buildings containing 50,000 square feet of gross building area or more; provided, that the BID tax imposed on any such real property shall not exceed \$75,000 annually;

“(E) The amount of \$72 per hotel room annually; and

“(F) The amount of \$96 per unit annually for nonexempt residential properties; provided, that if a residential unit is restricted to residents based upon income pursuant to a federal or District affordable housing program, the BID tax due on the unit shall be computed by applying the percentage of area median income that an eligible household must meet to participate in the affordable housing program for the unit to the amount of the BID tax which would otherwise be due.”

Emergency legislation. — For temporary (90 day) addition, see § 2(c) of Capitol Riverfront Business Improvement District Emergency Amendment Act of 2007 (D.C. Act 17-78, July 27, 2007, 54 DCR 7631).

Legislative history of Law 17-27. — For Law 17-27, see notes following § 2-1215.02.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 19-161. — Law 19-161, the “Capitol Riverfront BID Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-707, which was re-

ferred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15,

2012, it was assigned Act No. 19-369 and transmitted to both Houses of Congress for its review. D.C. Law 19-161 became effective on July 13, 2012.

§ 2-1215.59. Anacostia BID.

(a) Subject to review and approval by the Mayor under the provisions of §§ 2-1215.04 and 2-1215.05, the formation of the Anacostia BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is authorized and the BID taxes established in subsection (c) of this section are imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Anacostia BID shall be comprised of the geographical area which is delineated as follows:

(1) All lots bordering Good Hope Road, S.E., between the Anacostia River and the intersection with 18th Street, S.E.;

(2) All lots bordering Martin Luther King, Jr. Avenue, S.E., between S Street, S.E., and the intersection with Magnolia Street, S.E.;

(3) All lots bordering Howard Road, S.E., between Martin Luther King, Jr. Avenue, S.E., and the intersection with Anacostia Drive, S.E.;

(4) All lots bordering Anacostia Drive, S.E., between Howard Road, S.E., and the intersection with Good Hope Road, S.E.; and

(5) All lots bordering Shannon Place, S.E., between U Street, S.E., and Chicago Street, S.E.

(c) The BID taxes for the nonexempt real properties in the Anacostia BID shall not exceed \$0.19 per \$100.00 of assessed value.

(May 29, 1996, D.C. Law 11-134, § 209, as added Dec. 24, 2009, D.C. Law 18-99, § 2(b), 56 DCR 8707.)

Legislative history of Law 18-99. — For Law 18-99, see notes following § 2-1215.04.

PART C.

APPLICATION OF LAW.

§ 2-1215.71. Establishment of BIDs not limited.

The listing of specifically authorized BIDs in part B of this subchapter shall not be construed to prohibit the establishment of a BID in another area pursuant to the terms of this subchapter; provided, that any BID taxes, or BID tax increases, not authorized in part B of this subchapter (whether as adopted or amended by act of Council) shall not become effective until the effective date of an act of Council which makes such BID taxes effective.

(May 29, 1996, D.C. Law 11-134, § 301, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637.)

Cross references. — National capital revitalization corporation, tax increment revenue bonds, see § 2-1219.23.

National capital revitalization corporation, transfer, assignment, and assumption of powers and duties, see § 2-1219.29.

Effect of amendments. — D.C. Law 16-91 made a technical change in the enacting clause of D.C. Law 15-257 which resulted in no change in text.

Legislative history of Law 15-257. — Law 15-257, the “Business Improvement Districts and Anacostia Waterfront Corporation Clarifi-

cation Amendment Act of 2004”, was introduced in Council and assigned Bill No 15-717, which was referred to Committee of Economic Development. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-632 and transmitted to both Houses of Congress for its review. D.C. Law 15-257 became effective on March 17, 2005.

Legislative history of Law 16-91. — For Law 16-91, see notes following § 2-218.54.

Subchapter IX. Tax Increment Financing.

PART A.

GENERAL.

§ 2-1217.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Assessor” means the Office of Taxation and Revenue, or such other person or office responsible for assessing the value of real property.

(2) “Authority” means the District of Columbia Financial Responsibility and Management Assistance Authority.

(3) “Available real property tax revenues” means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47 and payments in lieu of real property taxes, exclusive of the special tax provided for in § 1-204.81 and pledged to the payment of general obligation indebtedness of the District.

(4) “Available sales tax revenue” means the revenues resulting from the imposition of the tax imposed pursuant to Chapter 20 of Title 47, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08.

(5) “Capital City Business and Industrial Area” means the area beginning at the intersection of New York Avenue, N.E., and 9th Street, N.E., to Montana Avenue, N.E.; north on Montana Avenue, N.E., to W Street N.E.; west on W Street, N.E., to 13th Street, N.E.; northwest on 13th Street, N.E., to Brentwood Road, N.E.; southwest on Brentwood Road, N.E., to 9th Street, N.E.; south on 9th Street, N.E., to New York Avenue, N.E.

(6) “Capital City Market Area” means the area beginning at the intersection of Florida Avenue, N.E., and North Capitol Street; southeast on Florida Avenue, N.E., to 12th Street, N.E.; south on 12th Street, N.E., to H Street, N.E.; west on H Street, N.E., to 9th Street, N.E.; north on 9th Street, N.E., to Florida Avenue, N.E.

(7) “Capital improvement” means the same under generally accepted accounting principles.

(8) “CFO” means the Chief Financial Officer of the District as established by § 1-204.24a(a).

(9) “Collector” means the District of Columbia Treasurer, or such other person or office as is from time to time responsible for the collection of real property taxes and sales taxes.

(10) “Comprehensive Plan” means the Comprehensive Plan of the District of Columbia adopted by the Council, as amended from time to time.

(10A) “Contaminated property” means a property abandoned or underutilized because of perceived or actual contamination by hazardous substances; or when the expansion or redevelopment is complicated by perceived or actual contamination by hazardous substances.

(11) “Current assessed value” means for any tax year, the assessed value of each lot of taxable real property within a TIF area as then recorded on the land records of the District as of January preceding the tax year.

(12) “DD Regulations” means the Downtown Development District Regulations, 11 DCMR § 1700 et seq. (1995).

(13) “Development costs” means any or all of the following costs either actual or estimated for a development project:

(A) Costs of studies, surveys, plans and specifications, including professional service costs for architectural, accounting, engineering, legal, marketing, financial and planning services;

(B) Property assembly costs, including acquisition or leasing of land and other property, real or personal, or rights or interests in property, demolition of buildings and other structures, remediation of environmental hazards, and the clearing and grading of land;

(C) Costs of preservation, rehabilitation, reconstruction, repair or remodeling of existing public or private buildings, structures and fixtures;

(D) Costs of any public works or improvements undertaken by, or at the direction of the District or any other governmental unit;

(E) Costs of parking and transportation facilities, stadia, museums, other cultural institutions, educational institutions, retail, entertainment and recreation facilities, telecommunications infrastructure, public plazas, malls, pedestrian walkways and parks that are owned by the District or any other governmental unit or are privately owned but available for use by the general public;

(F) Costs of construction of new public or privately owned housing units and community facilities and costs of preservation, rehabilitation, reconstruction, repair or remodeling of public and private buildings for use as housing units and community facilities;

(G) Costs of maintaining and operating public works and improvements;

(H) Financing costs, including but not limited to all expenses related to the issuance of TIF bonds, interest on TIF bonds, TIF bond reserves, credit enhancements, and costs related to the performance by the District government of its covenants and agreements with the holders of its TIF bonds;

(I) Working capital and working capital reserves directly related to the development of a project;

(J) Administrative costs of the District in issuing TIF bonds pursuant to this subchapter; and

(K) Relocation, job training, and education costs.

(14) “Development sponsor” means any organization or person that seeks to undertake, or undertakes, a project.

(15) “District” means the District of Columbia.

(16) “Downtown area” means the area of the District addressed by the Downtown Interactive Task Force, being the area with the boundary commencing at the intersection of Pennsylvania Avenue, N.W. and 12th Street, N.W.; north on 12th Street, N.W., to N Street, N.W.; east on N Street, N.W., to New Jersey Avenue, N.W.; southeast on New Jersey Avenue, N.W., to 2nd Street, N.W.; south on 2nd Street, N.W., to Pennsylvania Avenue, N.W.; and northwest on Pennsylvania Avenue, N.W., to the point of commencement.

(17) “Downtown Report” means the Interactive Downtown Task Force Report.

(18) “Eligible project” means a project that has been certified by the CFO as complying with the requirements set forth in this subchapter.

(19) “Georgia Avenue Area” means any square located on or abutting Georgia Avenue, N.W., beginning at the intersection Florida Avenue, N.W., and north on Georgia Avenue, N.W., to Eastern Avenue, N.W.

(20) “Gross floor area” means gross floor area within the meaning of the Zoning Regulations of the District.

(21) “HPRB” means the District of Columbia Historic Preservation Review Board.

(22) “Initial assessed value” means the assessed value of each lot of taxable real property within a tax increment area on the date determined by the Council; provided, that the date shall not be earlier than the date on which the Council initially approves the eligible project within the area for the TIF.

(23) “Initial sales tax amount” means the amount of available sales tax revenues from locations within the tax increment area in the fiscal year determined by the Council; provided, that the fiscal year shall not be earlier than the fiscal year immediately preceding the fiscal year in which the Council initially approves the eligible project within the area for the TIF.

(24) “Priority development area” means the downtown area, Capital City Business and Industrial Area; Capital City Market Area; Georgia Avenue Area; any District-designated Foreign Trade Zones or Free Trade Zones as defined under Federal law; any federally-approved Enterprise Zones, Empowerment Zones, or Enterprise Community; Development Zone Areas; and the Southeast Federal Center/Navy Yard Area; and any housing opportunity area, development area, or new or upgraded commercial center designated on the District of Columbia Generalized Land Use Policies Map that is part of the Comprehensive Plan; the Minnesota Avenue area which shall consist of land within the boundary descriptions beginning from East Capitol Street, N.E., to Nannie Helen Burroughs Avenue, N.E.; the Dix Street area which shall consist of land within the boundary descriptions beginning from 58th Street, N.E. to Eastern Avenue, N.E.; the Nannie Helen Burroughs area which shall consist of land within the boundary descriptions beginning from Eastern Avenue, N.E., to

49th Street, N.E.; the Pennsylvania Avenue area which shall consist of land within the boundary descriptions beginning from Branch Avenue, S.E., to Carpenter Street, S.E.; and the Benning Road area which shall consist of land within the boundary descriptions beginning from East Capitol Street, S.E., to 44th Street, N.E., from Hanna Place, S.E., to Hillside Road, S.E., and from 39th Street, S.E., to 36th Street, S.E.; the Division Avenue area from Eads Street, N.E., to Hayes Street, N.E.; any block, a portion of which is located in the Uptown Arts-Mixed Use Overlay District, as defined in subsection 1900.1 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1900.1); and the census tracts located in the District for which the poverty rate is not less than 10% as determined on the basis of the 1990 census; and contaminated property areas as defined in paragraph (10A) of this section.

(25) “Project” means any capital improvement undertaken within the priority development area.

(26) “Real property tax increment revenues” means the portion of the available real property tax revenues allocable to one or more tax allocation funds pursuant to this subchapter.

(27) “Sales tax increment revenues” means the portion of the available sales tax revenues allocable to one or more tax allocation funds pursuant to this subchapter.

(28) “Southeast Federal Center/Navy Yard Area” means the area beginning at the intersection of Interstate 395/295 (SW/SE Freeway) and the Anacostia River Waterfront, S.W., northwest to 14th Street, S.W.; south on 14th Street, S.W., to the Washington Channel Waterway; east along the Washington Channel Waterway to the Anacostia River eastern banks and adjacent areas encompassing the public housing and residential parcels adjacent to the Navy Yard, 8th Street, S.W., commercial corridor, marine barracks, Buzzard Point area, northern tip of the Naval station, Poplar Point, Anacostia waterfront, portions of the West Campus of Saint Elizabeth’s, and the area surrounding the Anacostia Metro Station.

(29) “Special merits” means other economic, cultural, social, or financial factors, apart from the criteria established in this subchapter, that may justify the approval of TIF for a project. The special merits shall be established, by regulation, by the CFO in consultation with the City Administrator or during a control year, as defined in § 47-393, the Chief Management Officer (“CMO”), and the Director of the Department of Housing and Economic Development.

(30) “TIF” means tax increment financing.

(31) “TIF area” means any area designated and established for TIF pursuant to the provisions of this subchapter.

(32) “TIF bonds” means bonds, notes or other obligations issued pursuant to this subchapter.

(Sept. 11, 1998, D.C. Law 12-143, § 2, 45 DCR 3724; Apr. 27, 1999, D.C. Law 12-271, § 2(a), 46 DCR 3615; June 24, 2000, D.C. Law 13-128, § 2, 47 DCR 2682; June 13, 2001, D.C. Law 13-312, § 705(a), 48 DCR 3804; May 22, 2002, D.C. Law 14-144, § 2(a), 49 DCR 3600; Mar. 3, 2010, D.C. Law 18-111, § 2082(f), 57 DCR 181.)

Cross references. — National capital region transportation, funding, Metrorail/Metrobus account, excluded funds, see § 9-1111.15.

Prior Codifications. — 1981 Ed., § 1-2293.1.

Effect of amendments. — D.C. Law 13-128, in subd. (24), deleted “and” following “36th Street, S.E.”; added a semicolon following “Hayes Street, N.E.”; and added “; any block, a portion of which is located in the Uptown Arts-Mixed Use Overlay District, as defined in subsection 1900.1 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1900.1); and the census tracts located in the District for which the poverty rate is not less than 10% as determined on the basis of the 1990 census.”

D.C. Law 13-312 added par. (10A); and, in par. (24), inserted “; and contaminated property areas as defined in paragraph (10A) of this section”.

D.C. Law 14-144, in par. (22), substituted “on the date determined by the Council; provided, that the date shall not be earlier than the date on which the Council initially approves the eligible project within the area for the TIF” for “on the date the tax increment area is established”; and in par. (23), substituted “the fiscal year determined by the Council; provided, that the fiscal year shall not be earlier than the fiscal year immediately preceding the fiscal year in which the Council initially approves the eligible project within the area for the TIF” for “the calendar year immediately preceding the year in which the tax increment area is established”.

D.C. Law 18-111, in par. (4), substituted “Washington Convention Center Fund” for “Washington Convention Center Authority Fund”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the Tax Increment Financing Temporary Amendment Act of 2002 (D.C. Law 14-139, May 21, 2002, law notification 49 DCR 5056).

Temporary Addition of Section. — Section 2 to 15 of D.C. Law 18-268 added sections to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) ‘Authorized Delegate’ means the City Administrator, the Deputy Mayor for Planning and Economic Development, the Chief Financial Officer, the District of Columbia Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this act pursuant to section 422(6) of the Home Rule Act.

“(2) ‘Available Real Property Tax Increment Revenues’ means, for any fiscal year of the

District, with respect to the Howard Theatre Redevelopment Project TIF Area, the revenues resulting in that fiscal year from the imposition of the tax under Chapter 8 of Title 47 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the special tax provided for in section 481 of the Home Rule Act, pledged to the payment of general obligation indebtedness of the District, minus those same revenues generated in the Real Property Tax Base Year; provided, that such revenues are not otherwise exclusively committed to another purpose.

“(3) ‘Available Sales Tax Increment Revenues’ means, for any fiscal year of the District, with respect to the Howard Theatre Redevelopment Project TIF Area, the revenues resulting in that fiscal year from the imposition of the taxes under Chapters 20 and 22 of Title 47 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Authority Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08), minus those same revenues generated in the Sales Tax Base Year; provided, that such revenues are not otherwise exclusively committed to another purpose.

“(4) ‘Available Tax Increment’ means the sum of the Available Sales Tax Increment Revenues and Available Real Property Tax Increment Revenue.

“(5) ‘Bond Counsel’ means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

“(6) ‘Bonds’ means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this act.

“(7) ‘Chairman’ means the Chairman of the Council of the District of Columbia.

“(8) ‘Chief Financial Officer’ means the Chief Financial Officer of the District of Columbia.

“(9) ‘Closing Documents’ means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

“(10) ‘Council’ means the Council of the District of Columbia.

“(11) ‘Development Agreement’ means the development agreement between the District and the Development Sponsor setting for the terms and conditions upon and pursuant to which the District will issue the Bonds and the Development Sponsor will develop the project.

“(12) ‘Development Costs’ shall have the same meaning as in section 2(13) of the Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01(13)).

“(13) ‘Development Sponsor’ means Howard Theatre Restoration, Inc., a District of Columbia corporation, or a designee or assignee of, or successor to, Howard Theatre Restoration, L.L.C., approved by the Mayor.

“(14) ‘District’ means the District of Columbia.

“(15) ‘Financing Documents’ means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds, including any offering document, and any required supplements to any such documents.

“(16) ‘Home Rule Act’ means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 et seq.).

“(17) ‘Howard Theatre Parking Garage’ means parking spaces dedicated for the exclusive use by, and in conjunction with, the Howard Theatre Redevelopment Project in Lots 21, 66, 67, 68, 97, 814, 815, 855, 857, 858, and 859, Square 441.

“(18) ‘Howard Theatre Redevelopment Project’ means the financing, refinancing, or reimbursing of Development Costs incurred for the acquisition, leasing, construction, rehabilitating, installing, and equipping of a new mixed-use facility, consisting of a multi-purpose entertainment venue, museum, restaurant, and educational center within the historic building in Lots 90 and 807, Square 441.

“(19) ‘Howard Theatre Redevelopment Project TIF Area’ means the area so designated in section 4.

“(20) ‘Real Property Tax Base Year’ means the tax year preceding the year in which this act becomes effective and the initial assessed value to be used in making the determination of Available Real Property Tax Revenues of each lot of taxable real property in the Howard Theatre Redevelopment Project TIF Area shall be the assessed value in the tax year preceding the year in which this act becomes effective.

“(21) ‘Reserve Agreement’ means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance, Inc.

“(22) ‘Sales Tax Base Year’ means the tax year preceding the year in which this act becomes effective.

“(23) ‘TIF’ means tax increment financing.

“Sec. 3. Creation of the Howard Theatre Redevelopment Project Fund.

“(a) There is established as a nonlapsing fund the Howard Theatre Redevelopment Project

Fund, which shall be used solely as provided in subsection (d) of this section. The Chief Financial Officer shall deposit into the Howard Theatre Redevelopment Project Fund the Available Tax Increment and any other taxes or fees specifically designated by law for deposit in the Howard Theatre Redevelopment Project Fund.

“(b) Except as provided in subsection (e) of this section, all funds deposited into the Howard Theatre Redevelopment Project Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

“(c) The Mayor may pledge and create a security interest in the funds in the Howard Theatre Redevelopment Project Fund, or any sub-account within the Howard Theatre Redevelopment Project Fund, for the payment of the costs of carrying out any of the purposes described in subsection (d) of this section without further action by the Council as permitted by section 490(f) of the Home Rule Act. If Bonds are issued, the payment will be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the Bonds.

“(d) The funds deposited in the Howard Theatre Redevelopment Project Fund may be used to:

“(1) Secure the repayment of the Bonds;

“(2) Pay debt service, including principal, premium, if any, and interest on the Bonds; and

“(3) Finance, refinance, or reimburse the District or the Development Sponsor for costs of the Howard Theatre Redevelopment Project.

“(e) If, at the end of any fiscal year of the District following the issuance of the Bonds authorized by this act, the value of cash and investments in the Howard Theatre Redevelopment Fund exceeds the amount of all payments authorized by this act and the Financing Documents, including required deposits into reserve funds, amounts to be set aside for additional series of Bonds issued under this act, and any coverage requirements associated with the sale of the Bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem Bonds prior to maturity.

“Sec. 4. Creation of the Howard Theatre Redevelopment Project TIF Area.

“There is hereby established the Howard Theatre Redevelopment Project TIF Area, which shall consist of the following real property:

“(1) Lot 90, Square 441 (with a street address of 620 T Street, N.W.);

"(2) Lot 807, Square 441 (with a street address of 1830 Wiltberger Street, N.W.); and

"(3) The Howard Theatre Parking Garage.

"Sec. 5. Bond authorization.

"(a) The Council approves and authorizes the issuance of one or more series of Bonds in an aggregate amount not to exceed \$4 million to fund costs of the Howard Theatre Redevelopment Project, including Development Costs, the financing costs and costs of issuance, capitalized interest, establishment of debt service or other reserve funds related to the Bonds, and any other debt program-related costs as determined by the Chief Financial Officer.

"(b) The Mayor may pay from the proceeds of the Bonds, the costs and expenses incurred by the District of Columbia in issuing and delivering the Bonds.

"Sec. 6. Bond details.

"(a) The Mayor may take any action reasonably necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

"(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

"(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

"(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

"(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;

"(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

"(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

"(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

"(8) The time and place of payment of the Bonds;

"(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this act;

"(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

"(11) The terms and types of credit enhancement under which the Bonds may be secured.

"(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obliga-

tions of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment and any other taxes and fees allocated to the Howard Theatre Redevelopment Project Fund), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

"(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

"(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

"(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee or paying agent to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

"(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

"(g) The Bonds are declared to be issued for essential public and governmental purposes. The Bonds, the interest thereon, and the income therefrom, and all funds pledged or available to pay or secure the payment of the Bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

"(h) The District pledges, covenants, and agrees with the holders of the Bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which Available Real Property Tax Increment Revenues or Available Sales Tax Increment Revenues are received, allocated, applied, or pledged, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the Bonds, will not in any way impair the rights or remedies of the holders of the Bonds, and will not modify, in any way, the exemptions from taxation provided for in this act, until the Bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the Bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the Bonds. This subsection shall constitute a contract between the District and the holders of the Bonds. To the extent that any acts or resolutions of the Council may be in

conflict with this act, this act shall be controlling.

“(i) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding Article 9 of Subtitle I of Title 28 of the District of Columbia Official Code:

“(1) A pledge made and security interest created in respect of the Bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

“(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

“(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

“Sec. 7. Issuance of the Bonds.

“(a) The Bonds of any series may be sold at negotiated upon terms that the Mayor considers to be in the best interests of the District.

“(b) The Bonds also may be issued as a TIF note to the Development Sponsor and may be held and used as security for debt incurred or to be incurred by the Development Sponsor, an agent of the Development Sponsor, or another party selected by the Development Sponsor.

“(c) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the Bonds.

“(d) The Mayor is authorized to deliver executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

“(e) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

“(f) The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.), and subchapter III of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract that the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act.

“Sec. 8. Payment and security.

“(a) Except as may be otherwise provided in this act, the principal of, premium, if any, on, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Howard Theatre Redevelopment Project Fund, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, and other funds that, as provided in the Financing Documents, may be made available to the District for payment of the Bonds from sources other than the District, all as provided for in the Financing Documents.

“(b) There is further allocated to the payment of debt service on the Bonds the Available Increment. The Available Increment shall be subordinate to the allocation of Available Increment to the Budgeted Reserve (as defined in the Reserve Agreement and as these terms more fully described in the Reserve Agreement) to the extent that the Reserve Agreement continues to apply to the Available Increment and may be used for the payment of debt service on the Bonds to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay debt service on the Bonds. The allocation of Available Increment authorized by this subsection shall be made in compliance with all existing contractual obligations of the District with respect to the Available Increment and shall terminate on the date on which all of the Bonds are paid or provided for and are no longer outstanding pursuant to their terms.

“(c) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents to the trustee for the Bonds pursuant to the Financing Documents.

“(d) The trustee or paying agent is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

“Sec. 9. Financing and Closing Documents.

“(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds.

“(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

“(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds, the

Financing Documents, and the Closing Documents to which the District is a party.

“(d) The Mayor’s execution and delivery of the Financing Documents and the Closing Documents shall constitute conclusive evidence of the Mayor’s approval, on behalf of the District, of the final form and content thereof.

“(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

“Sec. 10. Limited liability.

“(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment and any other taxes or fees allocated to the Howard Theatre Redevelopment Project Fund), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

“(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

“(c) No person, including, but not limited to any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this act, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

“Sec. 11. District officials.

“(a) Except as otherwise provided in section 10 (c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this act, the Bonds, the Financing Documents, or the Closing Documents.

“(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Finance-

ing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

“Sec. 12. Maintenance of documents.

“Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

“Sec. 13. Information reporting.

“Within 3 days after the Mayor’s receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

“Sec. 14. Authority of the Chief Financial Officer.

“Notwithstanding any other provision of this act, any action taken by the Mayor to implement the provisions of this act shall be consistent with the Chief Financial Officer’s authority under section 424d of the Home Rule Act.

“Sec. 15. Fiscal impact of issuance. For the purposes of determining the fiscal impact of this act, the Bonds shall be deemed to be issued under the authority of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.71 et seq.), as a project within the 7th Street/Georgia Avenue, N.W., Retail Priority Area established pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 714).”

Section 17(b) of D.C. Law 18-268 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed., see §§ 2-12 of the Tax Increment Financing Authorization Emergency Act of 1998 (D.C. Act 12-353, May 29, 1998, 45 DCR 3701).

For temporary amendment of section, see § 2(a) of the Tax Increment Financing Emergency Amendment Act of 1998 (D.C. Act 12-562, January 22, 1999, 46 DCR 2104).

For temporary (90 day) amendment of section, see § 2(a) of Tax Increment Financing Emergency Amendment Act of 2002 (D.C. Act 14-282, February 25, 2002, 49 DCR 2305).

For temporary (90 day) amendment of section, see § 2082(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 12-143. — Law 12-143, the “Tax Increment Financing Authori-

zation Act of 1998,” was introduced in Council and assigned Bill No. 12-498, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 3, 1998, and April 7, 1998, respectively. Signed by the Mayor on May 4, 1998, it was assigned Act No. 12-354 and transmitted to both Houses of Congress for its review. D.C. Law 12-143 became effective on September 11, 1998.

Legislative history of Law 12-271. — Law 12-271, the “Tax Increment Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-829, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-590 and transmitted to both Houses of Congress for its review. D.C. Law 12-271 became effective on April 27, 1999.

Legislative history of Law 13-128. — Law 13-128, the “Tax Increment Financing Amendment Act of 1998, (“TIF Act”)” was introduced in Council and assigned Bill No. 13-263, which was referred to the Committees on Economic Development and Finance and Revenue. The Bill was adopted on first and second readings on February 1, 2000, and March 7, 2000, respectively. Signed by the Mayor on March 2, 2000, it was assigned Act No. 13-298 and transmitted to both Houses of Congress for its review. D.C. Law 13-128 became effective on June 24, 2000.

Legislative history of Law 13-312. — Law 13-312, the “Brownfield Revitalization Amendment Act of 2000” was introduced in Council and assigned Bill No. 13-531, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 8, 2000, and

December 5, 2000, respectively. Signed by the Mayor on January 22, 2001, it was assigned Act No. 13-576 and transmitted to Both Houses of Congress for its review. D.C. Law 13-312 became effective on June 15, 2001.

Legislative history of Law 14-144. — Law 14-144, the “Tax Increment Financing Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-553, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 5, 2002, and March 19, 2002, respectively. Signed by the Mayor on April 2, 2002, it was assigned Act No. 14-321 and transmitted to both Houses of Congress for its review. D.C. Law 14-144 became effective on May 22, 2002.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Mayor’s Orders. — Establishment and Appointments — Task Force on Local, Small, and Disadvantaged Business Opportunity Development, see Mayor’s Order 2002-62, April 19, 2002 (49 DCR 3720).

Amendment of Mayor’s Order 2002-62, dated 3-19-02, Establishment and Appointments — Task Force on Local, Small and Disadvantaged Business Opportunity Development and Appointment, see Mayor’s Order 2002-92, May 24, 2002 (49 DCR 4899).

Editor’s notes. — Transfer of powers, duties, and responsibilities from Chief Financial Officer of the District: Section 30(e)(1) of D.C. Law 12-144 provided that the provisions of this subchapter shall continue in full force and effect provided that the Board of Directors of the National Capital Revitalization Corporation shall exercise all functions of the Chief Financial Officer of the District except the duties under § 1-2293.5 § 2-1217.05, 2001 Ed. and after the date of notice from the Board to the Chief Financial Officer that the Board is ready to assume such functions.

§ 2-1217.02. TIF bond authorization and forward commitment.

(a) Pursuant to § 1-204.90, the Council authorizes the issuance of TIF bonds. The portions of property tax increment revenues and the portions of the sales tax increment revenues that are declared to be dedicated pursuant to this subchapter, to the payment of debt service on TIF bonds, the provision and maintenance of reserves, and the payment of development costs, shall constitute tax increments as defined in § 1-204.90(m)(6).

(b) TIF bonds may be issued to finance development costs of eligible projects approved pursuant to this subchapter. Refunding bonds may be issued to refund bonds issued pursuant to this subchapter. The aggregate principal amount of TIF bonds, other than refunding bonds shall not exceed \$500 million; provided, that the aggregate amount of TIF bonds for projects in the Central Business District, as defined in Title 11 of the District of Columbia

Municipal Regulations, shall not exceed \$300 million. All TIF bonds issued pursuant to this subchapter shall be issued before January 1, 2014.

(c) The CFO is authorized to enter into such financing documents as may be necessary or appropriate for the issuance, security, and administration of the TIF bonds, investment of proceeds and moneys in the accounts provided for in, or pursuant to this subchapter, and the application of the proceeds of the TIF bonds and the moneys and investments in such accounts, and for the purposes provided in § 2-1217.07, including financing documents with development sponsors. The CFO is authorized to execute and deliver in the name of the District, and on its behalf, any financing documents and any closing documents to which the District is a party, including each trust agreement, trust indenture, secured loan agreement or other instrument entered into by the District pursuant to this subchapter.

(d) The requirements for a project to comply with the applicable eligibility requirements pursuant to § 2-1217.03 shall be set forth in an agreement between the District and the development sponsor. The agreement shall obligate the development sponsor to develop the specified eligible project.

(e) TIF bonds may qualify as tax-exempt enterprise zone facility bonds if the bonds satisfy the applicable requirements of the Internal Revenue Code of 1986, as amended, and applicable laws of the District.

(Sept. 11, 1998, D.C. Law 12-143, § 3, 45 DCR 3724; Oct. 20, 2005, D.C. Law 16-33, § 2012, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2002, 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 7018, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 134, 56 DCR 1117; Sept. 24, 2010, D.C. Law 18-223, § 7192(a), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 1-2293.2.

Effect of amendments. — D.C. Law 16-33, in subsec. (b), substituted “August 1, 2006” for “January 1, 2003”.

D.C. Law 16-192, in subsec. (b), substituted “\$500 million; provided, that the aggregate amount of TIF bonds for projects in the Central Business District, as defined in Title 11 of the District of Columbia Municipal Regulations, shall not exceed \$300 million” for “\$300 million”, and substituted “January 1, 2008” for “January 1, 2003”.

D.C. Law 17-219, in subsec. (b), substituted “January 1, 2010” for “January 1, 2008”.

D.C. Law 17-353 validated a previously made technical correction in subsec. (b).

D.C. Law 18-223, in subsec. (b), substituted “January 1, 2014” for “January 1, 2010”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Tax Increment Financing Reauthorization Temporary Act of 2002 (D.C. Law 14-288, Apr. 4, 2003, law notification 50 DCR 5846).

For temporary (225 day) amendment of section, see § 2 of the Tax Increment Financing

Reauthorization Date Temporary Act of 2003 (D.C. Law 15-77, Mar. 10, 2004, law notification 51 DCR 3369).

For temporary (225 day) amendment of section, see § 2 of the Tax Increment Financing Reauthorization Date Temporary Amendment Act of 2004 (D.C. Law 15-198, Dec. 7, 2004, law notification 52 DCR 442).

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed., see note to § 2-1217.01.

For temporary (90 day) amendment of section, see § 2 of Tax Increment Financing Reauthorization Emergency Act of 2002 (D.C. Act 14-593, January 7, 2003, 50 DCR 641).

For temporary (90 day) amendment of section, see § 2 of Tax Increment Financing Reauthorization Date Emergency Amendment Act of 2003 (D.C. Act 15-187, October 24, 2003, 50 DCR 9492).

For temporary (90 day) amendment of section, see § 2 of Tax Increment Financing Reauthorization Date Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-293, January 21, 2004, 51 DCR 1077).

For temporary (90 day) amendment of section, see § 2 of Tax Increment Financing Reau-

thorization Date Emergency Amendment Act of 2004 (D.C. Act 15-448, June 23, 2004, 51 DCR 6565).

For temporary (90 day) amendment of section, see § 2 of Tax Increment Financing Reauthorization Date Congressional Review Second Emergency Amendment Act of 2004 (D.C. Act 15-628, November 30, 2004, 52 DCR 1139).

For temporary (90 day) amendment of section, see §§ 2012, 2013 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2002 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2002 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2002 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 7192 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

Legislative history of Law 16-33. — For Law 16-33, see notes following § 2-307.01.

Legislative history of Law 16-192. — Law 16-192, the “Fiscal Year Budget Support Act of 2006”, was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title: Section 2001 of D.C. Law 16-192 provided that subtitle A of title II of the act may be cited as the “Retail Incentive and Tax Increment Financing Reauthorization and Amendment Act of 2006”.

Short title: Section 7017 of D.C. Law 17-219 provided that subtitle H of title VII of the act may be cited as the “Tax Increment Financing Reauthorization Amendment Act of 2008”.

Short title: Section 7191 of D.C. Law 18-223 provided that subtitle T of title VII of the act may be cited as the “Extension of Tax Increment Financing Authority Amendment Act of 2010”.

Short title of subtitle B of title II of Law 16-33: Section 2011 of D.C. Law 16-33 provided that subtitle B of title II of the act may be cited as the Tax Incremental Financing Re-Authorization Act of 2005.

References in text. — The Internal Revenue Code of 1986, referred to in (e), is codified as Title 26 of the United States Code.

Editor’s notes. — Section 2013 of D.C. Law 16-33 provided: “Sec. 2013. Applicability. Section 2012 shall apply as of January 1, 2003.”.

Section 7019 of D.C. Law 17-219 provided that this subtitle shall apply as of January 1, 2008.

Section 7192(b) of D.C. Law 18-223 provided: “This section shall apply as of January 1, 2010.”

§ 2-1217.03. Certification of development project.

(a) In order to be eligible for TIF, a development sponsor of any project located in a priority development area shall apply to the CFO for certification that the project complies with the requirements of this subchapter. The application shall consist of a development plan for the project, which shall consist of the following:

- (1) A delineation of the proposed TIF area;
- (2) A description of the proposed land uses of the project;
- (3) The use of the financing proceeds made available pursuant to this subchapter;
- (4) A pro forma projection of the revenues and expenses of the project;
- (5) An assessment of the financial feasibility of the project;
- (6) A general description of the timing and phasing of the project;
- (7) A description of the compatibility of the project with the Comprehensive Plan;

(8) A description of the project's compliance with the zoning regulations of the District; and

(9) An analysis of the projected tax revenue and benefits to be generated by the project.

(b) Not later than 120 days after the receipt of an application which meets the criteria set forth in subsection (a) of this section the CFO shall certify or reject the project. In determining whether to certify the project, the CFO shall consider the following criteria:

(1) Whether the project is financially feasible;

(2) Whether the project will likely result in a net increase in the taxes payable to the District, taking into consideration income taxes, franchise taxes, real property taxes, without regard to the real property tax increment revenues to be applied to payment of the TIF bonds, sales taxes, without regard to the sales tax increment revenues to be applied to payment of the TIF bonds, parking taxes, use taxes, and other taxes, over the amount that would have been payable to the District in the absence of the project;

(3) Whether the project is consistent with the Comprehensive Plan and will achieve development priorities identified in the Comprehensive Plan for the priority development area in which the project is located;

(4) Whether the project's total anticipated benefits to the District, including public benefits as well as financial benefits, exceed the total anticipated costs to the District;

(5) Whether an allocation of the project's real property tax increment revenues and sales tax increment revenues will compete with or supplant benefits from other sources or by other means which are otherwise available for the project on reasonable terms and conditions; and

(6) Whether the project is one of special merits and there is a reasonable probability that the special merits of the project will not be achieved without the TIF allocation.

(c) In addition to the criteria enumerated in subsection (b) of this section, for projects located in the Downtown Area, the CFO shall consider whether the project will achieve development priorities identified in the Downtown Report that are consistent with the Comprehensive Plan and that satisfy one of the following:

(1) If located within a Housing Priority Area, whether the project, for the proposed term of the TIF bonds, commits to:

(A) Providing on-site at least 65% of the residential gross floor area required by the DD Regulations for the applicable Housing Priority Area; or

(B) Providing on-site at least 65% of the residential gross floor area required by the DD Regulations for the applicable Housing Priority Area utilizing not less than 90% of the leasable area of the floor at street level, and not less than 75% of the leasable area of the floor immediately above or immediately below the floor at the street level, for one or more of the preferred uses set forth in §§ 1710 or 1711 of the DD Regulations with the preferred use space having a clear ceiling height of not less than 13 feet (unless the project is subject to the HPRB review in which case such 13 feet ceiling height shall not apply).

(2) If not located within a Housing Priority Area, whether the project, for the proposed term of the TIF bonds, commits to:

(A) Making residential housing as its primary use; or

(B) Utilizing not less than 90% of the leasable space on the floor at street level, and not less than 75% of the leasable space on the floor immediately above or below the floor at street level, for one or more of the preferred uses set forth in §§ 1710 and 1711 of the DD Regulations, with all the preferred use space (unless the project is subject to HPRB review) having a clear ceiling height of not less than 13 feet.

(3) Whether located in a housing priority area or in other parts of the downtown area, if a project fails to meet the criteria enumerated in paragraphs (1) or (2) of this subsection, the CFO shall determine whether the project is one of special merits and there is a reasonable probability that the special merits of the project will not be achieved without the TIF allocation.

(d) If, upon consideration of the criteria set forth in subsections (b) and (c) of this section, the CFO determines to certify the project for Council approval, the Mayor shall enter into negotiations with the development sponsor to determine the boundaries of the TIF area for the project, the amount of tax increment allocation, the type of tax to be allocated, the terms and conditions of the agreement between the District and the development sponsor, and the termination dates for the tax increment revenues to be allocated to the project. Upon completion of negotiations, the CFO shall certify the project, and prepare a proposed resolution for the approval of the Council consistent with the results of the negotiations and with § 2-1217.04. If the project does not comply with the criteria, the CFO shall so notify the development sponsor in writing stating in what areas the project fails to meet the criteria. The CFO shall allow the development sponsor up to 60 days to comply and cure any defects.

(e) The Zoning Administrator; the Director, Office of Planning; the Corporation Counsel; the Director, Department of Housing and Community Development; and any other relevant agency of the District government shall furnish to the CFO information and certificates as may be required by the CFO to confirm a project's compliance with the criteria enumerated in subsections (b) and (c) of this section.

(f) Subject to the consent of each development sponsor of a project within the affected TIF areas and the rights of the holders of its TIF bonds, the CFO may abolish a TIF area, merge TIF areas or alter the boundaries of a TIF area.

(g) The CFO shall impose reasonable fees in connection with the issuance of the TIF bonds to defray administrative costs or burdens incurred as a result of the determination of the tax increment allocation and the issuance of such TIF bonds.

(h) The Mayor, pursuant to subchapter I of Chapter 5 of this title, may issue rules to implement the provisions of this section.

(Sept. 11, 1998, D.C. Law 12-143, § 4, 45 DCR 3724; Apr. 27, 1999, D.C. Law 12-271, § 2(b), 46 DCR 3615.)

Prior Codifications. — 1981 Ed., § 1-2293.3.

Emergency legislation. — For temporary amendment of section, see § 2(b) of the Tax

Increment Financing Emergency Amendment Act of 1998 (D.C. Act 12-562, January 22, 1999, 46 DCR 2104).

For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed., see note to § 2-1217.01.

For temporary (90-day) addition of section, see § 2(a) of the Tax Increment Financing Authorization Emergency Amendment Act of 1999 (D.C. Act 13-134, August 4, 1999, 46 DCR 6788).

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

Legislative history of Law 12-271. — For legislative history of D.C. Law 12-271, see Historical and Statutory Notes following § 2-1217.01.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 12-143, the “Tax Financing Act of 1998”, see Mayor’s Order 99-197, December 6, 1999 (46 DCR 10566).

Delegation of Rulemaking Authority Pursuant to DC Law 12-143, the Tax Increment Financing Authorization Act of 1998, see Mayor’s Order 2001-108, August 6, 2001 (48 DCR 7798).

§ 2-1217.04. Approval by the Council.

Upon completion of negotiations with the development sponsor, the CFO may certify the project and submit such certification and the proposed resolution referred to in § 2-1217.03(d) to the Mayor. If the Mayor determines that the resolution is consistent with the requirements of this section, the Mayor shall transmit to the Council a proposed resolution to approve the project, the TIF area, the development agreement, and the amount to be financed. The proposed resolution shall define the TIF area for the eligible project, a summary description of the eligible project and its compliance with the criteria, a listing of the public benefits to be derived from the eligible project, portion of real property tax or sales revenues increment to be allocated to the project; and a summary of the terms of the TIF bonds to be issued with respect to the project. The Council shall approve or disapprove the proposed resolution within 45 days.

(Sept. 11, 1998, D.C. Law 12-143, § 5, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.4.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed., see note to § 2-1217.01.

For temporary approval of projects by the Council pursuant to this section, see § 5 of the Tax Increment Financing Emergency Amendment Act of 1998 (D.C. Act 12-562, January 22, 1999, 46 DCR 2104).

For temporary (90-day) addition of section, see § 2(b) of the Tax Increment Financing Authorization Emergency Amendment Act of 1999 (D.C. Act 13-134, August 4, 1999, 46 DCR 6788).

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 12-143, the “Tax Financing Act of 1998”, see Mayor’s Order 99-197, December 6, 1999 (46 DCR 10566).

Resolutions. — Resolution 14-257, the “District of Columbia Tax Increment Revenue Bond

Downtown TIF Area Emergency Approval Resolution of 2001”, was approved effective November 6, 2001.

Resolution 14-364, the “Tax Increment Revenue Bond Downtown TIF Area Base Year Emergency Approval Resolution of 2002”, was approved effective February 5, 2002.

Resolution 15-192, the “Tax Increment Revenue Bonds NJA Development Partners, LP Project Approval Emergency Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-197, the “Tax Increment Revenue Bonds Embassy Suites Hotel Inducement Emergency Resolution of 2003”, was approved effective July 8, 2003.

Resolution 15-381, the “Tax Increment Revenue Bonds 1000 K, L.L.C. Project Approval Resolution of 2003”, was approved effective December 16, 2003.

Resolution 15-426, the “Tax Increment Revenue Bonds NJA Development Partners, LP Project Technical Amendment Emergency Resolution of 2004”, was approved effective January 21, 2004.

Editor’s notes. — Application of Law 12-271: Section 5 of D.C. Law 12-271 provided that

the provisions of the act shall apply to any project approved by the Council pursuant to this section after September 11, 1998.

Section 4 of D.C. Law 13-128 provided: "This

act shall apply to any project approved by the Council under section 5 of the TIF Act after July 1, 1999."

§ 2-1217.05. Allocation of tax increments.

(a) When a TIF area for a project is established pursuant to §§ 2-1217.03 and 2-1217.04, the Assessor shall promptly determine and certify the initial assessed value of each lot of taxable property within the TIF area and the Collector shall determine and certify the initial sales tax amount for the TIF area. In certifying the initial sales tax amount, the Collector may determine, at the time of issuance of the TIF bonds that are to be secured by the sales tax increment revenues from the TIF area, that a single re-certification of the initial sales tax amount shall be made when the CFO advises that the new financial systems of the District have been implemented. Any re-certified initial sales tax amount shall control, regardless of whether it results in an increase or a decrease from the amount initially certified.

(b) Within 60 days after the approval of a project by resolution of the Council, the CFO shall provide for the allocation of property tax increment revenues or sales tax increment revenues, or both, within each TIF area. The CFO shall establish one or more separate tax increment allocation accounts within the General Fund for the deposit and application of property tax increment revenues and sales tax increment revenues from each tax increment area. Monies shall be transferred from such accounts at the times and in the amounts required pursuant to financing documents under §§ 2-1217.02 and 2-1217.07 to any fund or account established under such documents for the purpose specified in those documents or may, as provided in the bond documents, be transferred directly from the collector to such funds and accounts. Pursuant to subsections (c), (d), and (e) of this section, monies held or to be held in a tax allocation account or such funds and accounts established under financing documents may be used to pay development costs associated with projects in the applicable tax increment area, to pay the principal of and interest on the TIF bonds issued with respect to such tax increment area, and otherwise applied as indicated in subsection (e) of this section consistent with the applicable bond documents. Monies in a tax allocation account or in any fund or account established under the financing documents may be pledged as security for the payment of TIF bonds issued to finance development costs with respect to the applicable tax increment area and to related purposes referred to in subsection (e) of this section.

(c) Notwithstanding any other law, available real property tax revenues from so much of that portion of taxes levied within a TIF area, from the date of the approval of the TIF area, that are attributable to the difference between the current assessed value and the initial assessed value of each lot of taxable real property within the TIF area as have been approved for such allocation by resolution of the Council shall be paid by the Collector to the CFO for deposit into one or more of the tax increment accounts established by the CFO pursuant to subsection (b) of this section.

(d) Notwithstanding any other law, so much of that portion of available sales tax revenues that results from the sales tax levied within a TIF area, from the date of the approval of the TIF area, that are in excess of the initial sales tax amount as have been approved for such allocation by resolution of the Council shall be paid by the Collector to the CFO for deposit into one or more of the tax increment accounts established by the CFO pursuant to subsection (b) of this section.

(e) The amounts, if any, remaining in the tax increment accounts for a TIF area at the end of each tax year, after provision for the payment of principal or interest on TIF bonds, any costs of credit or liquidity enhancement and other costs, fees, and expenses of administering, carrying, and paying the bonds and the funds, trusts, and escrows pertaining to them, and providing for reasonably required reserves, all as provided in the bond documents, shall revert to the General Fund.

(Sept. 11, 1998, D.C. Law 12-143, § 6, 45 DCR 3724; May 22, 2002, D.C. Law 14-144, § 2(b), 49 DCR 3600.)

Prior Codifications. — 1981 Ed., § 1-2293.5.

Effect of amendments. — D.C. Law 14-144, at the end of subsec. (a), added two new sentences to read as follows: “In certifying the initial sales tax amount, the Collector may determine, at the time of issuance of the TIF bonds that are to be secured by the sales tax increment revenues from the TIF area, that a single re-certification of the initial sales tax amount shall be made when the CFO advises that the new financial systems of the District have been implemented. Any re-certified initial sales tax amount shall control, regardless of whether it results in an increase or a decrease from the amount initially certified.”

Temporary Amendment of Section. — For temporary (225 day) amendment of section,

see § 2(b) of the Tax Increment Financing Temporary Amendment Act of 2002 (D.C. Law 14-139, May 21, 2002, law notification 49 DCR 5056).

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

For temporary (90 day) amendment of section, see § 2(b) of Tax Increment Financing Emergency Amendment Act of 2002 (D.C. Act 14-282, February 25, 2002, 49 DCR 2305).

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

Legislative history of Law 14-144. — For Law 14-144, see notes following § 2-1217.01.

§ 2-1217.06. TIF bond issuance.

The CFO shall issue the District’s TIF bonds for the purposes authorized by this subchapter. The CFO shall exercise such power to authorize and provide for the issuance of TIF bonds by signing financing documents, including those referred to in § 2-1217.07, which shall describe in brief and general terms sufficient for reasonable identification the development costs to be financed or the TIF bonds that are to be funded or refunded and the property tax increment revenues, the sales tax increment revenues and the other revenues, assets and funds that are to be pledged to secure the repayment of such TIF bonds. The TIF bonds may be issued in more than one series, may be executed in such manner, and may bear such date or dates, mature at such time or times (provided, however, that the final maturity date of any TIF bonds payable from property tax increment revenues or sales tax increment revenues derived from a TIF area may not be later than the termination date of that TIF area), bear interest at any fixed or variable rate, be subject to redemption upon such terms

and have such other terms and provisions as the financing documents, including any supplemental thereto, a trust agreement or a trust indenture may provide. The CFO may charge a reasonable fee to cover administrative costs.

(Sept. 11, 1998, D.C. Law 12-143, § 7, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.6.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

§ 2-1217.07. TIF bond security.

(a) A series of TIF bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, or by a secured loan agreement or other instrument giving power to a corporate trustee by means of which the District may do the following:

(1) Make and enter into any and all covenants and agreements with the trustee or the holders of the TIF bonds that the District may determine to be necessary or desirable including, without limitation, covenants and agreements as to:

(A) The application, investment, deposit, use and disposition of the proceeds of TIF bonds and the other monies, securities, and property of the District;

(B) The terms and conditions of any agreement with any other person concerning the development of the downtown area;

(C) The assignment by the District of its rights in any agreement;

(D) Terms and conditions upon which additional TIF bonds of the District may be issued;

(E) Providing for the appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(F) Vesting in a trustee, for the benefit of the holders of TIF bonds, or in the bondholders directly, such rights and remedies as the District shall determine;

(2) Pledge, mortgage or assign monies, agreements, property or other assets of the District, either presently in hand or to be received in the future, or both;

(3) Provide for bond insurance and letters of credit, or otherwise enhance the credit of and security for the payment of its TIF bonds; and

(4) Provide for any other matters of like or different character that in any way affect the security for or payment of the TIF bonds.

(b) TIF bonds issued pursuant to this subchapter are declared to be issued for an essential public and governmental purposes. The TIF bonds and the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the bonds shall at all times be exempt from taxation by the District except for estate, inheritance, and gift taxes.

(c) The District does hereby pledge to and covenant and agree with the holders of any TIF bonds issued pursuant to this subchapter that, subject to the provisions of the financing documents, the District will not limit or alter the basis upon which available real property taxes and available sales taxes are received, allocated, applied and pledged pursuant to this subchapter; will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the TIF bonds, will not in any way impair the rights or remedies of the holders, and will not modify in any way the exemptions from taxation provided for in this subchapter, until the bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders, are fully met and discharged. The CFO is authorized to include this pledge and agreement of the District as part of the contract with the holders of any of its bonds. This subchapter shall constitute a contract between the District and the holders of the TIF bonds authorized by this subchapter. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(d) It is the intention of the Council that a pledge made in respect of its TIF bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having any claim of any kind in tort, contract or otherwise against the District irrespective of whether the parties have notice. Neither the bond order, trust agreement, nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding, and effective against the parties.

(Sept. 11, 1998, D.C. Law 12-143, § 8, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.7.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

§ 2-1217.08. Default.

If there shall be a default in the payment of the principal of or interest on any TIF bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District government shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the TIF bonds; then the holders of the TIF bonds, or the trustee appointed to act on behalf of the holders, may, subject to the provisions of the financing documents, do the following:

(1) By action, writ, or other proceeding enforce all rights of the holders of the TIF bonds, including the right to require the District government to carry out and perform the terms of any agreement with the holders of the TIF bonds or its duties under this subchapter;

(2) By action, require the District government to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the TIF bonds; and

(4) Declare all the TIF bonds due and payable, whether or not in advance of maturity and, if all the defaults be made good, annul the declaration and its consequences.

(Sept. 11, 1998, D.C. Law 12-143, § 9, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.8.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

§ 2-1217.09. Public inspection.

The CFO may cause any bond order to be filed for public inspection and cause to be published in a newspaper of general circulation in the District a notice stating the fact and date of such bond order and the place where such bond order has been filed for public inspection and also the date of the first publication of such notice. The publication also shall contain a notice that any suit, action, or proceeding of any kind or nature in any court questioning the validity of this subchapter or the validity or proper authorization of TIF bonds provided for by the bond order or the validity of any covenants or agreements provided for by said bond order or any financing document securing the TIF bonds authorized by said bond order shall be commenced within 20 days after the first publication of said notice. If any such notice shall at any time be published and if no suit, action, or proceeding questioning the validity of this subchapter or the validity or proper authorization of TIF bonds provided for by the bond order referred to in said notice, or the validity of any covenants or agreements provided for by said bond order or any financing documents securing the TIF bonds authorized by said bond order shall be commenced or instituted within 20 days after the first publication of said notice, then all residents, taxpayers, and owners of property in the District and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any proceeding, questioning the validity of this subchapter, or the validity or proper authorization of such TIF bonds, or the validity of any such covenants, and agreements, and this subchapter shall be conclusively deemed to have been validly enacted by the District and the CFO shall be conclusively deemed to have been authorized to exercise the powers delegated to the CFO under this subchapter, and said TIF bonds, covenants, and agreements shall be conclusively deemed to be valid and binding obligations of the District as provided in this subchapter.

(Sept. 11, 1998, D.C. Law 12-143, § 10, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.9.

Emergency legislation. — For temporary

addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For

legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

§ 2-1217.10. Liability.

(a) Neither the members of the Council nor any person executing TIF bonds issued pursuant to this subchapter shall be liable personally on the TIF bonds by reason of the issuance thereof.

(b) Notwithstanding any other provision of this subchapter, TIF bonds issued pursuant to this subchapter are not general obligations of the District and shall not be in any way a debt or liability of the District within the meaning of any debt or other limit prescribed by law. Neither the full faith and credit nor the taxing power of the District (other than property tax increment revenues and sales tax increment revenues) may be pledged to secure the payment of any TIF bonds issued pursuant to this subchapter.

(Sept. 11, 1998, D.C. Law 12-143, § 11, 45 DCR 3724.)

Prior Codifications. — 1981 Ed., § 1-2293.10.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

§ 2-1217.11. Transfer of authority.

All the authority of the CFO under this subchapter, except the duties of the CFO under § 2-1217.05 shall be transferred to the Board of Directors of the National Capital Revitalization Corporation (“Board”) in accordance with subchapter X of this chapter, upon notification to the CFO that the Board is ready to assume the functions.

(Sept. 11, 1998, D.C. Law 12-143, § 12, 45 DCR 3724; Oct. 16, 1998, D.C. Law 12-169, § 201, 45 DCR 5187.)

Prior Codifications. — 1981 Ed., § 1-2293.11.

Emergency legislation. — For temporary addition of §§ 1-2293.1 to 1-2293.11 1981 Ed. see note to § 2-1217.01.

Legislative history of Law 12-143. — For legislative history of D.C. Law 12-143, see Historical and Statutory Notes following § 2-1217.01.

Legislative history of Law 12-169. — Law 12-169, the “Bethesda-Welch Post 7284, Veterans of Foreign Wars Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 1998, and Tax Increment Financing Authorization and National Capital Revitalization Corporation Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-531, which was referred to the Committee on Finance and Revenue. The Bill was adopted

on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on July 8, 1998, it was assigned Act No. 12-412 and transmitted to both Houses of Congress for its review. D.C. Law 12-169 became effective on October 16, 1998.

Editor’s notes. — Transfer of powers, duties, and responsibilities from Chief Financial Officer of the District: Section 30(e)(1) of D.C. Law 12-144 provided that the provisions of this subchapter shall continue in full force and effect provided that the Board of Directors of the National Capital Revitalization Corporation shall exercise all functions of the Chief Financial Officer of the District except the duties under § 1-2293.5 and after the date of notice from the Board to the Chief Financial Officer that the Board is ready to assume such functions.

§ 2-1217.12. DC Ballpark TIF Area.

(a) Notwithstanding any other provision of this part, there is hereby created a TIF area denominated as the DC Ballpark TIF Area, the real property tax increment revenues and the sales tax increment revenues from which shall be allocated as provided in this section. The DC Ballpark TIF Area is defined as the area starting at the intersection of Half Street, S.W., and Interstate 395, proceeding in a southerly direction until the intersection of Half Street, S.W., with Water Street, S.W.; proceeding along an east/west line in an easterly direction to the Anacostia River shoreline; proceeding northeast along the Anacostia River shoreline to 1st Street, S.E.; proceeding in a northerly direction to M Street, S.E.; proceeding in an easterly direction along M Street, S.E., to New Jersey Avenue, S.E.; proceeding in a northwesterly direction along New Jersey Avenue, S.E. to Interstate 395; proceeding in a northwesterly direction to the point of origin. The DC Ballpark TIF Area shall not include either:

- (1) The ballpark site as defined under § 10-1601.05(a)(2); or
- (2) The ballpark as defined under § 47-2002.05(a)(1)(A).

(b) Notwithstanding any other provision of this part, with respect to the DC Ballpark TIF Area, the initial sales tax amount shall mean the available sales tax revenue from locations within the area for the tax year preceding the year in which this section becomes effective and the initial assessed value shall mean the assessed value of each lot of taxable real property on April 8, 2005.

(c) Notwithstanding any other provision of this part, the real property tax increment revenues and the sales tax increment revenues from the DC Ballpark TIF Area shall be allocated and paid into the Community Benefit Fund, established by § 10-1602.02(a), and which is hereby declared to be a tax increment allocation account as described in § 2-1217.05. The revenues so deposited in the Community Benefit Fund shall be used for any of the purposes described in § 10-1602.02(b).

(d) Without limiting the generality of this part, including the ability to apply the real property tax increment revenues and the sales tax increment revenues to the payment of TIF bonds, the funds in the Community Benefit Fund may be used to secure bonds or other evidence of indebtedness issued in accordance with the provisions of § 1-204.90, without regard to any limitations contained in this part.

(e) The \$300 million limitation on the issuance of TIF bonds contained in § 2-1217.02(b) and the time limitation on the issuance of TIF bonds contained in such section shall apply to any bonds supported in whole or in part by real property tax increment revenues or sales tax increment revenues allocated to the Community Benefit Fund.

(Sept. 11, 1998, D.C. Law 12-143, § 12a, as added Apr. 8, 2005, D.C. Law 15-320, § 205, 52 DCR 1757; Nov. 30, 2005, D.C. Law 16-91, § 202, 52 DCR 10637.)

Effect of amendments. — D.C. Law 16-91 rewrote subsec. (a), which had read as follows: “(a) Notwithstanding any other provision of

this part, there is hereby created a TIF area denominated as the DC Ballpark TIF Area, the real property tax increment revenues and the

sales tax increment revenues from which shall be allocated as provided in this section. The DC Ballpark TIF Area is defined as the area starting at the intersection of Half Street, S.W., and Interstate 395, proceeding in a southerly direction until the intersection of Half Street, S.W., with Water Street, S.W.; proceeding along an east/west line in an easterly direction to the Anacostia River shoreline; proceeding northeast along the Anacostia River shoreline to 1st Street, S.E.; proceeding in a northerly direction to M Street, S.E.; proceeding in an easterly direction along M Street, S.E., to New Jersey Avenue, S.E.; proceeding in a northwesterly direction along New Jersey Avenue, S.E. to Interstate 395; proceeding in a northwesterly direction to the point of origin."

Legislative history of Law 15-320. — Law 15-320, the "Ballpark Omnibus Financing and Revenue Act of 2004", was introduced in Council and assigned Bill No. 15-1028, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and second readings on November 30, 2004, and December 21, 2004, respectively. Signed by the Mayor on

December 29, 2004, it was assigned Act No. 15-717 and transmitted to both Houses of Congress for its review. D.C. Law 15-320 became effective on April 8, 2005.

Legislative history of Law 16-91. — Law 16-91, the "Technical Amendments Act of 2005", was introduced in Council and assigned Bill No. 16-477, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses of Congress for its review. Title II of D.C. Law 16-91 became effective on November 30, 2005, pursuant to Pub. L. 109-115, Div. B, § 136.

Effective date. — Section 136 of Pub. L. 109-115, Nov. 30, 2005, 119 Stat. 2522, provided: "Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, amendments to the Ballpark Technical Amendments Act of 2005 shall take effect on the date of the enactment by the District of Columbia [Nov. 30, 2005]."

PART B.

IDENTIFIED PROJECTS.

§ 2-1217.31. Gallery Place Project tax and fee abatements.

(a) For the purposes of this section, the term:

(1) "Development Sponsor" means Gallery Place Holdings LLC, a Delaware limited liability company, and its successors and assigns.

(2) "Gallery Place Project" means the acquisition, construction, installing, and equipping of a mixed-use complex located on Square 454, Lots 41, 824, 838, 857, 877, 878; the portion of the public alley that reverted to former Lot 820 (which is currently known as Lot 866), and former Lot 821 (which is currently known as Lot 867) pursuant to the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Liber 17 at folio 74; and the portions of the public alley that will revert to Lots 41, 824, 838, 857, 877 and 878, all in Square 454, pursuant to the alley closing approved by the Closing of Public Alleys in Square 454 and Square 455, S.O. 98-194, Act of 1999, effective October 22, 1999 (D.C. Law 13-48; 46 DCR 6768), and consisting of:

(A) An approximately 60,000-square-foot multiplex cinema;

(B) A mixed-use facility providing for retail stores, dining, entertainment, a health and fitness club, offices, and related facilities;

(C) A market-rate housing complex consisting of approximately 170 residential units;

(D) A parking garage containing approximately 850 parking spaces; and

(E) Other ancillary improvements.

(b) All fees to be paid, and any deposits to be made, by or on behalf of the Development Sponsor in connection with the Gallery Place Project under § 6-661.01 are hereby waived.

(c) The amount of all taxes, fees, and deposits exempt, abated, or waived under subsection (b) of this section, §§ 45-922(24), 47-902(17), 47-1002(26), and 47-2005(32), shall not exceed, in the aggregate, \$7 million.

(d) In accordance with § 9-401.06 providing a permanent form of government for the District of Columbia the Mayor shall expend up to \$2 million to improve and repair the streets, sewers, alleys, sidewalks, curbs, and gutters abutting the Gallery Place Project. All assessments upon abutting property for the cost of improvements to such streets, sewers, alleys, sidewalks, curbs, and gutters, including any expenses of assessment, shall be waived.

(Apr. 3, 2001, D.C. Law 13-241, § 2, 48 DCR 610; Oct. 19, 2002, D.C. Law 14-213, § 40, 49 DCR 8140.)

Legislative history of Law 13-241. — Law 13-241, the “Gallery Place Economic Development Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-877, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 21, 2000, it was assigned Act No. 13-519 and transmitted to both Houses of Congress for its review. D.C. Law 13-241 became effective on April 3, 2001.

Legislative history of Law 14-213. — Law 14-213, the “Technical Amendments Act of 2002”, was introduced in Council and assigned Bill No. 14-671, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 26, 2002, it was assigned Act No. 14-459 and transmitted to both Houses of Congress for its review. D.C. Law 14-213 became effective on October 19, 2002.

§ 2-1217.32. Mandarin Oriental Hotel Project fee deferral.

(a) For the purposes of this section, the term:

(1) “Development Sponsor” means Portals Hotel Site, LLC, a Delaware limited liability company, and its successors and assigns.

(2) “Mandarin Oriental Hotel Project” means the acquisition and initial development, construction, equipping, and furnishing of a Mandarin Oriental hotel within the Portals project, located on Square 299, Lot 831, consisting of a 400-room hotel with approximately 33,000 square feet of associated meeting and banquet space, 2 restaurants, a health spa and fitness center totaling approximately 10,000 square feet, and approximately 90,000 square feet of public parking space for approximately 200 cars.

(3) “Mandarin TIF Bonds” means the tax increment financing bonds issued in connection with the Mandarin Oriental Hotel Project pursuant to the Tax Increment Revenue Bonds Mandarin Hotel Project Emergency Approval Resolution of 2000, effective March 7, 2000 (Res. 13-510; 47 DCR 2133), and the Mandarin Hotel Project Modification Approval Resolution of 2000, effective December 19, 2000 (Res. 13-745; 48 DCR 83).

(b) All fees to be paid, and any deposits to be made, by or on behalf of the Development Sponsor in connection with the initial development, construction, equipping, and furnishing of the Mandarin Oriental Hotel Project under § 6-661.01, are hereby deferred until the Development Sponsor sells the Mandarin Oriental Hotel Project, as evidenced by the recordation of a deed

conveying title to Square 299, Lot 831, at which time such amounts shall be due and payable without penalty or interest.

(c) The amount of all taxes, fees, and deposits deferred under subsection (b) of this section, §§ 42-1102(25), 47-902(19), 47-1002(27), and 47-2005(33), shall not exceed, in the aggregate, \$4 million.

(d) This section shall apply upon the closing of the sale of the Mandarin TIF Bonds.

(Mar. 25, 2003, D.C. Law 14-232, § 2, 49 DCR 9764.)

Temporary Addition of Section. — For temporary (225 day) addition of section, see § 2 of the Mandarin Oriental Hotel Project Tax Deferral Temporary Act of 2002 (D.C. Law 14-143, May 21, 2002, law notification 49 DCR 5060).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of Mandarin Oriental Hotel Project Tax Deferral Emergency Act of 2001 (D.C. Act 14-227, January 8, 2002, 49 DCR 682).

For temporary (90 day) amendment of section, see § 2 of Mandarin Oriental Hotel Project Tax Deferral Congressional Review Emergency Act of 2002 (D.C. Act 14-345, April 24, 2002, 49 DCR 4300).

For temporary (90 day) fee deferrals for the Mandarin Oriental Hotel project, see § 2 of Mandarin Oriental Hotel Project Tax Deferral Second Congressional Review Emergency Act of 2002 (D.C. Act 14-563, December 23, 2002, 50 DCR 278).

For temporary (90 day) amendment of section, see § 2 of Mandarin Oriental Hotel Project Tax Deferral Congressional Review Emergency Act of 2003 (D.C. Act 15-36, March 24, 2003, 50 DCR 2764).

For temporary (90 day) repeal of section 5 of D.C. Law 14-232, see § 7018 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 5 of D.C. Law 14-232, see § 7018 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 14-232. — Law 14-232, the “Mandarin Oriental Hotel Project Tax Deferral Act of 2002”, was introduced in Council and assigned Bill No. 14-466, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 2, 2002, and October 1, 2002, respectively. Signed by the Mayor on October 23, 2002, it was assigned Act No. 14-489 and transmitted to both Houses of Congress for its review. D.C. Law 14-232 became effective on March 25, 2003.

Effective date. — Section 5 of Law 14-232 provided that this act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Editor’s notes. — Section 7018 of D.C. Law 18-111 repealed section 5 of D.C. Law 14-232.

§ 2-1217.33a. City Market at O Street — Definitions.

For the purposes of this subpart [§§ 2-1217.33a to 2-1217.33n], the term:

(1) “Authorized Delegate” means the Deputy Mayor for Planning and Economic Development, the Chief Financial Officer, the Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this subpart [§§ 2-1217.33a to 2-1217.33n] pursuant to § 1-204.22(6).

(2) “Available Increment” shall have the same meaning as set forth in the Reserve Agreement.

(3) “Available Real Property Tax Revenues” means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47, inclusive of any penalties and interest charges, exclusive of the special tax provided for in § 1-204.81 pledged to payment of general obligation indebtedness of the District.

(4) “Available Sales Tax Revenues” means the revenues resulting from the imposition of the tax under Chapter 20 of Title 47, including penalty and

interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08.

(5) “Available Tax Increment” means the sum of the Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the City Market at O Street TIF Area in any fiscal year of the District minus the sum of Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the City Market at O Street TIF Area in the base year.

(6) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(7) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subpart [§§ 2-1217.33a to 2-1217.33n].

(8) “Chairman” means the Chairman of the Council of the District of Columbia.

(9) “Chief Financial Officer” means the Chief Financial Officer established by § 1-204.24(a)(1).

(10) “Closing Documents” means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(11) “Council” means the Council of the District of Columbia.

(12) “Development Costs” has the same meaning as in § 2-1217.01(13).

(13) “Development Sponsor” means City Market, L.L.C., a District of Columbia limited liability company, or any other entity that undertakes the development of the project with the approval of the Mayor.

(14) “District” means the District of Columbia.

(15) “Financing Documents” means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any offering document, and any required supplements to any such documents.

(16) “Home Rule Act” means Chapter 2 of Title 1 [§1-201.01 et seq.].

(17) “Project” means the financing, refinancing, or reimbursing of Development Costs incurred for the acquisition, construction, installing, and equipping of a mixed-use project consisting of retail, commercial, and residential space, and parking in Lots 829 and 830, Square 398.

(18) “Reserve Agreement” means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance, Inc.

(19) “TIF” means tax increment financing.

(Nov. 25, 2008, D.C. Law 17-278, § 2, 55 DCR 11050.)

Emergency legislation. — For temporary (90 day) additions, see §§ 2 to 15 of Historic Anacostia Project Great Streets Initiative Tax Increment Financing Emergency Act of 2009 (D.C. Act 18-149, July 28, 2009, 56 DCR 6327).

For temporary (90 day) additions, see §§ 2 to

15 of Georgia Avenue Retail Project Great Streets Initiative Tax Increment Financing Emergency Act of 2009 (D.C. Act 18-156, July 28, 2009, 56 DCR 6348).

Legislative history of Law 17-278. — Law 17-278, the “City Market at O Street Tax Incre-

ment Financing Act of 2008”, was introduced in Council and assigned Bill No. 17-800 which was referred to the Committee on Financing and Revenue. The Bill was adopted on first and second readings on July 15, 2008, and Septem-

ber 16, 2008, respectively. Signed by the Mayor on October 3, 2008, it was assigned Act No. 17-533 and transmitted to both Houses of Congress for its review. D.C. Law 17-278 became effective on November 25, 2008.

§ 2-1217.33b. Creation of the City Market at O Street Fund.

(a) There is established as a nonlapsing fund the City Market at O Street Fund. The Chief Financial Officer shall deposit into the City Market at O Street Fund the Available Tax Increment and any other taxes or fees specifically designated by law for deposit in the City Market at O Street Fund.

(b) The Mayor may pledge and create a security interest in the funds in the City Market at O Street Fund, or any sub-account within the City Market at O Street Fund, for the payment of the costs of carrying out any of the purposes described in subsection (c) of this section without further action by the Council as permitted by § 1-204.90(f). If bonds are issued, the payment shall be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the bonds.

(c) The funds deposited in the City Market at O Street Fund may be used to:

(1) Secure the repayment of the bonds; and

(2) Finance, refinance, or reimburse the District or the Development Sponsor for the project.

(d) If, at the end of any fiscal year of the District, the balance of cash and investments in the City Market at O Street Fund exceeds the amount of debt service (including prepayment of principal and interest), reserves on any bonds, and any approved bond-related administrative expenses during the upcoming fiscal year, the excess may be transferred to the unrestricted balance of the General Fund of the District of Columbia.

(e) Except as provided in subsection (d) of this section, all funds deposited into the City Market at O Street Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Nov. 25, 2008, D.C. Law 17-278, § 3, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33c. Creation of the City Market at O Street TIF Area.

(a) There is created a TIF area designated as the City Market at O Street TIF Area. The City Market at O Street TIF Area is defined as the real property located in Lots 829 and 830, Square 398. As provided under § 2-1217.33b, the Available Tax Increment from the City Market at O Street TIF Area shall be

deposited in the City Market at O Street Fund and may be used for the purposes set forth in § 2-1217.33b.

(b)(1) The base year for determination of Available Sales Tax Revenues from locations within the City Market at O Street TIF Area shall be the tax year preceding the year in which this subpart becomes effective.

(2) The base year for determination of Available Real Property Tax Revenues shall be the tax year of the District preceding the year in which this subpart becomes effective and the initial assessed value to be used in making the determination of Available Real Property Tax Revenues shall be the assessed value of each lot of taxable real property in the City Market at O Street TIF Area for the preceding tax year in which this subpart becomes effective.

(Nov. 25, 2008, D.C. Law 17-278, § 4, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33d. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$46.5 million to fund the project. The bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in § 2-1217.33e.

(b) The proceeds of the bonds shall be used as follows:

(A) An amount not to exceed \$35 million may be used for payment of Development Costs of the project, other than costs described in subparagraph (B) of this paragraph.

(B) An amount not to exceed \$11.5 million may be used to pay the financing costs incurred by the District or the Development Sponsor and to fund capitalized interest and required reserves.

(Nov. 25, 2008, D.C. Law 17-278, § 5, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33e. Payment and security.

(a) Except as may be otherwise provided in this subpart [§§ 2-1217.33a to 2-1217.33n], the principal of, premium, if any, and interest on, the bonds, and the payment of ongoing administrative expenses related to the bond financing shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the City Market at O Street Fund, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, and other funds that, as provided in the Financing Documents, may be made available to the District for payment of

the bonds from sources other than the District, all as provided for in the Financing Documents.

(b) There is further allocated to the payment of debt service on the bonds the Available Increment, subordinate to the allocation of Available Increment to the Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve Agreement and to the extent that the Reserve Agreement continues to apply to the Available Increment, to be used for the payment of debt service on the bonds to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay debt service on the bonds. The allocation of Available Increment authorized by this subsection shall be made in compliance with all existing contractual obligations of the District with respect to the Available Increment and shall terminate on the date on which all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(c) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

(d) The trustee or paying agent is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

(Nov. 25, 2008, D.C. Law 17-278, § 6, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33f. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this subpart [§§ 2-1217.33a to 2-1217.33n] in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds to be issued and denominations of the bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds, and the maturity date or dates of the bonds;

(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time and place of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this subpart [§§ 2-1217.33a to 2-1217.33n];

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment, the Available Increment, and any other taxes and fees allocated to the City Market at O Street Fund), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee or paying agent to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, and the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District pledges, covenants, and agrees with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the revenues pledged to secure the bonds or the basis on which such revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify, in any way, the exemptions from taxation provided for in this subpart [§§ 2-1217.33a to 2-1217.33n], until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This

subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subpart [§§ 2-1217.33a to 2-1217.33n], this subpart [§§ 2-1217.33a to 2-1217.33n] shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Article 9 of Chapter 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(Nov. 25, 2008, D.C. Law 17-278, § 7, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33g. Issuance of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, or issued to the Development Sponsor, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the bonds.

(c) The Mayor is authorized to deliver executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

(e) Unit A of Chapter 3 of this title and subchapter III of Chapter 3 of Title 47 shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for the purposes of this subpart [§§ 2-1217.33a to 2-1217.33n].

(Nov. 25, 2008, D.C. Law 17-278, § 8, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33h. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(Nov. 25, 2008, D.C. Law 17-278, § 9, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33i. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment, the Available Increment, and any other taxes or fees allocated to the City Market at O Street Fund), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) No person, including, but not limited to, any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subpart [§§ 2-1217.33a to 2-1217.33n], the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents,

unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Nov. 25, 2008, D.C. Law 17-278, § 10, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33j. District officials.

(a) Except as otherwise provided in § 2-1217.33i(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subpart [§§ 2-1217.33a to 2-1217.33n], the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(Nov. 25, 2008, D.C. Law 17-278, § 11, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33k. Maintenance of documents.

Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

(Nov. 25, 2008, D.C. Law 17-278, § 12, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33l. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(Nov. 25, 2008, D.C. Law 17-278, § 13, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33m. Grant authorization.

The Mayor may make a grant to the Development Sponsor in an amount not to exceed \$2.5 million to assist in paying costs for architectural, engineering, design and consulting, and financial and legal services, and the costs related to the preparation of feasibility studies, plans, surveys, historic structure reports, reports of project revenues and expenses, and other predevelopment costs of the project.

(Nov. 25, 2008, D.C. Law 17-278, § 14, 55 DCR 11050.)

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

§ 2-1217.33n. Applicability. [Repealed].

Repealed.

(Nov. 25, 2008, D.C. Law 17-278, § 15, 55 DCR 11050; Mar. 3, 2010, D.C. Law 18-111, § 7004, 57 DCR 181.)

Emergency legislation. — For temporary (90 day) repeal, see § 7004 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 7004 of Fiscal Year Budget Support Congressional Re-

view Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-278. — For Law 17-278, see notes following § 2-1217.33a.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

§ 2-1217.34a. Howard Theatre Redevelopment Project — Definitions.

For the purposes of this subpart [§§ 2-1217.34a to 2-1217.34n], the term:

(1) “Authorized Delegate” means the City Administrator, the Deputy Mayor for Planning and Economic Development, the Chief Financial Officer, the District of Columbia Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this subpart [§§ 2-1217.34a to 2-1217.34n] pursuant to § 1-204.22(6).

(2) “Available Real Property Tax Increment Revenues” means, for any fiscal year of the District, with respect to the Howard Theatre Redevelopment Project TIF Area, the revenues resulting in that fiscal year from the imposition of the tax under Chapter 8 of Title 47 and the tax under § 47-1005.01, including any penalties and interest charges, exclusive of the special tax provided for in § 1-204.81, pledged to the payment of general obligation indebtedness of the District, minus those same revenues generated in the Real Property Tax Base Year; provided, that such revenues are not otherwise exclusively committed to another purpose.

(3) “Available Sales Tax Increment Revenues” means, for any fiscal year of the District, with respect to the Howard Theatre Redevelopment Project TIF Area, the revenues resulting in that fiscal year from the imposition of the taxes under Chapters 20 and 22 of Title 47, including any penalties and interest

charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Authority Fund established pursuant to § 10-1202.08, minus those same revenues generated in the Sales Tax Base Year; provided, that such revenues are not otherwise exclusively committed to another purpose.

(4) "Available Tax Increment" means the sum of the Available Sales Tax Increment Revenues and Available Real Property Tax Increment Revenue.

(5) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(6) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subpart [§§ 2-1217.34a to 2-1217.34n].

(7) "Chairman" means the Chairman of the Council of the District of Columbia.

(8) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(9) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(10) "Council" means the Council of the District of Columbia.

(11) "Development Agreement" means the development agreement between the District and the Development Sponsor setting for the terms and conditions upon and pursuant to which the District will issue the Bonds and the Development Sponsor will develop the project.

(12) "Development Costs" shall have the same meaning as in § 2-1217.01(13).

(13) "Development Sponsor" means Howard Theatre Restoration, Inc., a District of Columbia corporation, or a designee or assignee of, or successor to, Howard Theatre Restoration, L.L.C., approved by the Mayor.

(14) "District" means the District of Columbia.

(15) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds, including any offering document, and any required supplements to any such documents.

(16) "Home Rule Act" means Chapter 2 of Title 1 [§ 1-201.01 et seq.].

(17) "Howard Theatre Parking Garage" means parking spaces dedicated for the exclusive use by, and in conjunction with, the Howard Theatre Redevelopment Project in Lots 21, 66, 67, 68, 97, 814, 815, 855, 857, 858, and 859, Square 441.

(18) "Howard Theatre Redevelopment Project" means the financing, refinancing, or reimbursing of Development Costs incurred for the acquisition, leasing, construction, rehabilitating, installing, and equipping of a new mixed-use facility, consisting of a multi-purpose entertainment venue, museum, restaurant, and educational center within the historic building in Lots 90 and 807, Square 441.

(19) "Howard Theatre Redevelopment Project TIF Area" means the area so designated in § 2-1217.34c.

(20) "Real Property Tax Base Year" means the tax year preceding the year in which this subpart [§§ 2-1217.34a to 2-1217.34n] becomes effective and the initial assessed value to be used in making the determination of Available Real Property Tax Revenues of each lot of taxable real property in the Howard Theatre Redevelopment Project TIF Area shall be the assessed value in the tax year preceding the year in which this subpart [§§ 2-1217.34a to 2-1217.34n] becomes effective.

(21) "Reserve Agreement" means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance, Inc.

(22) "Sales Tax Base Year" means the tax year preceding the year in which this subpart [§§ 2-1217.34a to 2-1217.34n] becomes effective.

(23) "TIF" means tax increment financing.

(Dec. 7, 2010, D.C. Law 18-275, § 2, 57 DCR 9873; Dec. 2, 2011, D.C. Law 19-44, § 2, 58 DCR 8935.)

Effect of amendments. — D.C. Law 19-44, in par. (2), substituted "under Chapter 8 of Title 47 and the tax under § 47-1005.01, including" for "under Chapter 8 of Title 47 including".

Temporary Amendment of Section. — Section 2 of D.C. Law 19-4 amended par. (2) to read as follows:

"(2) 'Available Real Property Tax Increment Revenues' means, for any fiscal year of the District, with respect to the Howard Theatre Redevelopment Project TIF Area, the revenues resulting in that fiscal year from the imposition of the tax under Chapter 8 of Title 47 of the District of Columbia Official Code and the tax under section 47-1005.01 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the special tax provided for in section 481 of the Home Rule Act, pledged to the payment of general obligation indebtedness of the District, minus those same revenues generated in the Real Property Tax Base Year; provided, that such revenues are not otherwise exclusively committed to another purpose."

Section 4(b) of D.C. Law 19-4 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 2 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 2 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

For temporary (90 day) amendment of section, see § 2 of Howard Theatre Redevelopment Project Great Streets Initiative Tax Increment Financing Emergency Amendment Act of 2011 (D.C. Act 19-17, March 1, 2011, 58 DCR 2562).

Legislative history of Law 18-275. — Law 18-275, the "Howard Theatre Redevelopment Project Great Streets Initiative Tax Increment Financing Act of 2010", was introduced in Council and assigned Bill No. 18-844, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 13, 2010, and September 21, 2010, respectively. Signed by the Mayor on October 12, 2010, it was assigned Act No. 18-559 and transmitted to both Houses of Congress for its review. D.C. Law 18-275 became effective on December 7, 2010.

Law 19-44, the "Howard Theatre Redevelopment Project Great Streets Initiative Tax Increment Financing Amendment Act of 2011", was introduced in Council and assigned Bill No. 19-95, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 12, 2011, and September 20, 2011, respectively. Signed by the Mayor on October 11, 2011, it was assigned Act No. 19-174 and transmitted to both Houses of Congress for its review. D.C. Law 19-44 became effective on December 2, 2011.

§ 2-1217.34b. Creation of the Howard Theatre Redevelopment Project Fund.

(a) There is established as a nonlapsing fund the Howard Theatre Redevelopment Project Fund, which shall be used solely as provided in subsection (d) of this section. The Chief Financial Officer shall deposit into the Howard Theatre Redevelopment Project Fund the Available Tax Increment and any other taxes or fees specifically designated by law for deposit in the Howard Theatre Redevelopment Project Fund.

(b) Except as provided in subsection (e) of this section, all funds deposited into the Howard Theatre Redevelopment Project Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Mayor may pledge and create a security interest in the funds in the Howard Theatre Redevelopment Project Fund, or any sub-account within the Howard Theatre Redevelopment Project Fund, for the payment of the costs of carrying out any of the purposes described in subsection (d) of this section without further action by the Council as permitted by § 1-204.90(f). If Bonds are issued, the payment will be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the Bonds.

(d) The funds deposited in the Howard Theatre Redevelopment Project Fund may be used to:

- (1) Secure the repayment of the Bonds;
- (2) Pay debt service, including principal, premium, if any, and interest on the Bonds; and
- (3) Finance, refinance, or reimburse the District or the Development Sponsor for costs of the Howard Theatre Redevelopment Project.

(e) If, at the end of any fiscal year of the District following the issuance of the Bonds authorized by this subpart [§§ 2-1217.34a to 2-1217.34n], the value of cash and investments in the Howard Theatre Redevelopment Fund exceeds the amount of all payments authorized by this subpart [§§ 2-1217.34a to 2-1217.34n] and the Financing Documents, including required deposits into reserve funds, amounts to be set aside for additional series of Bonds issued under this subpart [§§ 2-1217.34a to 2-1217.34n], and any coverage requirements associated with the sale of the Bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem Bonds prior to maturity.

(Dec. 7, 2010, D.C. Law 18-275, § 3, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 3 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of

2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 3 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34c. Creation of the Howard Theatre Redevelopment Project TIF Area.

There is hereby established the Howard Theatre Redevelopment Project TIF Area, which shall consist of the following real property:

- (1) Lot 90, Square 441 (with a street address of 620 T Street, N.W.);
- (2) Lot 807, Square 441 (with a street address of 1830 Wiltberger Street, N.W.); and
- (3) The Howard Theatre Parking Garage.

(Dec. 7, 2010, D.C. Law 18-275, § 4, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 4 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 4 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34d. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of Bonds in an aggregate amount not to exceed \$4 million to fund costs of the Howard Theatre Redevelopment Project, including Development Costs, the financing costs and costs of issuance, capitalized interest, establishment of debt service or other reserve funds related to the Bonds, and any other debt program-related costs as determined by the Chief Financial Officer.

(b) The Mayor may pay from the proceeds of the Bonds, the costs and expenses incurred by the District of Columbia in issuing and delivering the Bonds.

(Dec. 7, 2010, D.C. Law 18-275, § 5, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 5 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 5 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34e. Bond details.

(a) The Mayor may take any action reasonably necessary or appropriate in accordance with this subpart [§§ 2-1217.34a to 2-1217.34n] in connection with

the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this subpart [§§ 2-1217.34a to 2-1217.34n];

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment and any other taxes and fees allocated to the Howard Theatre Redevelopment Project Fund), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee or paying agent to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The Bonds are declared to be issued for essential public and governmental purposes. The Bonds, the interest thereon, and the income therefrom, and

all funds pledged or available to pay or secure the payment of the Bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District pledges, covenants, and agrees with the holders of the Bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which Available Real Property Tax Increment Revenues or Available Sales Tax Increment Revenues are received, allocated, applied, or pledged, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the Bonds, will not in any way impair the rights or remedies of the holders of the Bonds, and will not modify, in any way, the exemptions from taxation provided for in this subpart [§§ 2-1217.34a to 2-1217.34n], until the Bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the Bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the Bonds. This subsection shall constitute a contract between the District and the holders of the Bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subpart [§§ 2-1217.34a to 2-1217.34n], this subpart [§§ 2-1217.34a to 2-1217.34n] shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Article 9 of Subtitle I of Title 28:

(1) A pledge made and security interest created in respect of the Bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(Dec. 7, 2010, D.C. Law 18-275, § 6, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 6 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 6 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34f. Issuance of the Bonds.

(a) The Bonds of any series may be sold at negotiated upon terms that the Mayor considers to be in the best interests of the District.

(b) The Bonds also may be issued as a TIF note to the Development Sponsor

and may be held and used as security for debt incurred or to be incurred by the Development Sponsor, an agent of the Development Sponsor, or another party selected by the Development Sponsor.

(c) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the Bonds.

(d) The Mayor is authorized to deliver executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(e) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

(f) Unit A of Chapter 3 of this title and subchapter III of Chapter 3 of Title 47 shall not apply to any contract that the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this subpart [§§ 2-1217.34a to 2-1217.34n].

(Dec. 7, 2010, D.C. Law 18-275, § 7, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 7 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 7 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34g. Payment and security.

(a) Except as may be otherwise provided in this subpart [§§ 2-1217.34a to 2-1217.34n], the principal of, premium, if any, on, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Howard Theatre Redevelopment Project Fund, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, and other funds that, as provided in the Financing Documents, may be made available to the District for payment of the Bonds from sources other than the District, all as provided for in the Financing Documents.

(b) There is further allocated to the payment of debt service on the Bonds the Available Increment. The Available Increment shall be subordinate to the allocation of Available Increment to the Budgeted Reserve (as defined in the Reserve Agreement and as these terms more fully described in the Reserve

Agreement) to the extent that the Reserve Agreement continues to apply to the Available Increment and may be used for the payment of debt service on the Bonds to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay debt service on the Bonds. The allocation of Available Increment authorized by this subsection shall be made in compliance with all existing contractual obligations of the District with respect to the Available Increment and shall terminate on the date on which all of the Bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(c) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents to the trustee for the Bonds pursuant to the Financing Documents.

(d) The trustee or paying agent is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

(Dec. 7, 2010, D.C. Law 18-275, § 8, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 8 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 8 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34h. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds, the Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content thereof.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(Dec. 7, 2010, D.C. Law 18-275, § 9, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 9 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 9 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34i. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Available Tax Increment and any other taxes or fees allocated to the Howard Theatre Redevelopment Project Fund), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) No person, including, but not limited to any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subpart [§§ 2-1217.34a to 2-1217.34n], the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Dec. 7, 2010, D.C. Law 18-275, § 10, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 10 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 10 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34j. District officials.

(a) Except as otherwise provided in § 2-1217.34i(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subpart [§§ 2-1217.34a to 2-1217.34n], the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile coun-

tersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

(Dec. 7, 2010, D.C. Law 18-275, § 11, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 11 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 11 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34k. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

(Dec. 7, 2010, D.C. Law 18-275, § 12, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 12 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 12 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34l. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(Dec. 7, 2010, D.C. Law 18-275, § 13, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 13 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 13 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34m. Authority of the Chief Financial Officer.

Notwithstanding any other provision of this subpart [§§ 2-1217.34a to 2-1217.34n], any action taken by the Mayor to implement the provisions of this

subpart [§§ 2-1217.34a to 2-1217.34n] shall be consistent with the Chief Financial Officer's authority under § 1-204.24d.

(Dec. 7, 2010, D.C. Law 18-275, § 14, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 14 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

For temporary (90 day) addition, see § 14 of Howard Theatre Redevelopment Project Great

Streets Initiative Tax Increment Financing Congressional Review Emergency Act of 2010 (D.C. Act 18-573, October 19, 2010, 57 DCR 10090).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

§ 2-1217.34n. Fiscal impact of issuance.

For the purposes of determining the fiscal impact of this subpart [§§ 2-1217.34a to 2-1217.34n], the Bonds shall be deemed to be issued under the authority of subchapter IX-A of Chapter 12 of this title [§ 2-1217.71 et seq.], as a project within the 7th Street/Georgia Avenue, N.W., Retail Priority Area established pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

(Dec. 7, 2010, D.C. Law 18-275, § 15, 57 DCR 9873.)

Emergency legislation. — For temporary (90 day) addition, see § 15 of Howard Theatre Redevelopment project Great Streets Initiative Tax Increment Financing Emergency Act of 2010 (D.C. Act 18-516, August 3, 2010, 57 DCR 7971).

Legislative history of Law 18-275. — For history of Law 18-275, see notes under § 2-1217.34a.

PART C.

DISPOSITION AND REDEVELOPMENT OF LOT 854 IN SQUARE 441.

§ 2-1217.41. Definitions. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 201, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

Editor's notes. — Section 9001 of D.C. Law

18-223 provided that the act shall apply as of October 1, 2010.

§ 2-1217.42. Creation of the Broadcast Center One Fund. [Repealed].

Repealed.

§ 2-1217.43

GOVERNMENT ADMINISTRATION

(Mar. 26, 2008, D.C. Law 17-132, § 202, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.43. Creation of the Broadcast Center One TIF Area. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 203, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.44. Bond authorization. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 204, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.45. Bond details. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 205, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.46. Issuance of the bonds. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 206, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.47. Payment and security. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 207, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

18-223 provided that the act shall apply as of October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.48. Financing and Closing Documents. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 208, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

18-223 provided that the act shall apply as of October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.49. Limited liability. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 209, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

18-223 provided that the act shall apply as of October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.50. District officials. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 210, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

18-223 provided that the act shall apply as of October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.51. Maintenance of documents. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 211, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See note to § 2-1208.01.

18-223 provided that the act shall apply as of October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

§ 2-1217.52. Information reporting. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-132, § 212, 55 DCR 1668; Sept. 24, 2010, D.C. Law 18-223, § 7082, 57 DCR 6242.)

Legislative history of Law 18-223. — See 18-223 provided that the act shall apply as of note to § 2-1208.01. October 1, 2010.

Editor's notes. — Section 9001 of D.C. Law

Subchapter IX-A. Tax Increment Financing For Retail Development.

§ 2-1217.71. Definitions.

For the purposes of this subchapter, the term:

(1) “Available Real Property Tax Revenues” means the revenues resulting from the imposition of the tax under Chapter 8 of Title 47, including any penalties and interest charges, exclusive of the special tax provided for in § 1-204.81, pledged to the payment of general obligation indebtedness of the District.

(2) “Available Sales Tax Revenues” means the revenues resulting from the imposition of the tax under Chapter 20 of Title 47, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08.

(3) “Bonds” means any bonds, notes, or other instruments issued by the District pursuant to § 1-204.90 and secured by Tax Increment Revenues or other security authorized by this subchapter.

(4) “CFO” means the Chief Financial Officer of the District of Columbia.

(5) “Downtown Retail Priority Area” means the record lots that front one of the following street locations: 7th Street, N.W., between Indiana and Massachusetts Avenues, N.W.; 11th Street, N.W., between Pennsylvania Avenue, N.W., and New York Avenue, N.W.; F Street, N.W., between 6th and 15th Streets, N.W.; and G Street, N.W., between 10th and 13th Streets, N.W., and includes portions of the following squares: 223, 224, 225, 252, 253, 254, 288, 289, 290, 319, 320, 321, 322, 346, 347, 348, 376, 377, 403, 406, 408.1, 428, 429, 430, 431, 452, 453, 454, 455, 456, 457, and 458.

(6) “Home Rule Act” means Chapter 2 of Title 1 [§ 1-201.01 et seq.].

(7) “LSDBE” means a local, small, or disadvantaged business enterprise certified by the Small and Local Business Opportunity Commission under subchapter IX-A of Chapter 2 of this title [§ 2-1217.71 et seq.].

(8) “Retail Development Project” means the establishment of a business engaged in direct onsite retail sales to consumers or providing a unique entertainment attraction, including the following activities in connection with such business: acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, remediation, expansion, extension, and the furnishing, equipping, and opening for business. In the case of the Downtown Retail Priority Area, Retail Development Projects shall meet the requirements of § 2-1217.73a, shall be limited to restaurants (on a demonstration basis), grocery and specialty food stores and businesses engaged in sales of home furnishings, apparel, and general merchandise goods

to specialized customers, or providing a unique entertainment attraction, and shall specifically exclude:

(A) Liquor stores, nightclubs, hotels, banks, pharmacies, phone stores, and service retail outlets; and

(B) The relocation of a business to the Downtown Retail Priority Area from another location within the District, unless the relocation involves a significant expansion of the size of the business.

(9) "Retail Development Costs" means any costs associated with, arising out of, or incurred in connection with:

(A) A Retail Development Project;

(B) The issuance of, or debt service or any other payments in respect of, the Bonds, including costs of issuance, capitalized interest, credit enhancement fees, reserve funds, or working capital; or

(C) The relocation of any business where the purpose of the relocation is to make space for a Retail Development Project.

(10) "Retail Priority Area" means:

(A) The Downtown Retail Priority Area; and

(B) Any other area or areas of the District so designated by the Mayor and approved by the Council in accordance with this subchapter.

(11) "Rules of Operation" means the rules and procedures, established by the Mayor pursuant to § 2-1217.74, by which Retail Development Projects will be approved as TIF Areas and receive proceeds of Bonds to pay Retail Development Costs.

(12) "Tax Increment Revenues" means the portion of the Available Real Property Tax Revenues, Available Sales Tax Revenues, or both, allocable to one or more tax allocation funds pursuant to § 2-1217.76.

(13) "TIF" means tax increment financing.

(14) "TIF Act" means subchapter IX of Chapter 12 of Title 2 [§ 2-1217.01 et seq.] or any successor act.

(15) "TIF Area" means a Retail Development Project that has been approved by the Mayor to receive proceeds of Bonds in accordance with the applicable Rules of Operation for the Retail Priority Area in which the Retail Development Project is located.

(Sept. 8, 2004, D.C. Law 15-185, § 2, 51 DCR 5941; Mar. 2, 2007, D.C. Law 16-191, § 11, 53 DCR 6794; Mar. 20, 2008, D.C. Law 17-129, § 2(a), 55 DCR 1532; Nov. 19, 2008, D.C. Law 17-262, § 2(a), 55 DCR 10887; Mar. 25, 2009, D.C. Law 17-353, § 226, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-106, § 2, 57 DCR 18; Mar. 3, 2010, D.C. Law 18-111, § 2082(g), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 7112(a), 57 DCR 6242.)

Effect of amendments. — D.C. Law 16-191 rewrote par. (7) which had previously read as follows: "(7) 'LSDBE' means a local, small, or disadvantaged business enterprise certified by the District of Columbia Local Business Opportunity Commission under subchapter IX of Chapter 2 of Title 2."

D.C. Law 17-129, in par. (8), substituted "direct onsite retail sales to consumers or pro-

viding a unique entertainment attraction," for "direct onsite retail sales to consumers," and substituted "general merchandise goods to specialized customers, or providing a unique entertainment attraction," for "general merchandise goods to specialized customers".

D.C. Law 17-262, in par. (8), substituted "limited to grocery and specialty food stores and" for "limited to".

D.C. Law 17-353 validated a previously made technical correction in par. (8).

D.C. Law 18-106, in par. (5), substituted "15th Streets, N.W." for "14th Streets, N.W."

D.C. Law 18-111, in par. (2), substituted "Washington Convention Center Fund" for "Washington Convention Center Authority Fund".

D.C. Law 18-223, in the lead-in language of par. (8), substituted "shall meet the requirements of § 2-1217.73a, shall be limited to restaurants (on a demonstration basis)," for "shall be limited to"; and, in par. (8)(A), deleted "restaurants," following "hotels,".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of Downtown Retail TIF Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-302, February 22, 2008, 55 DCR 2510).

For temporary (90 day) amendment of section, see § 2082(g) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(g) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 7112(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 15-185. — Law 15-185, the "Retail Incentive Act of 2004", was introduced in Council and assigned Bill No. 15-306, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 6, 2004, and May 4, 2004, respectively. Signed by the Mayor on May 21, 2004, it was assigned Act No. 15-435 and transmitted to both Houses of Congress for its review. D.C. Law 15-185 became effective on September 8, 2004.

Legislative history of Law 16-191. — Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the

Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Legislative history of Law 17-129. — Law 17-129, the "Downtown Retail TIF Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-451 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on January 29, 2008, it was assigned Act No. 17-279 and transmitted to both Houses of Congress for its review. D.C. Law 17-129 became effective on March 20, 2008.

Legislative history of Law 17-262. — Law 17-262, the "Downtown Retail Tax Increment Financing Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-771 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 15, 2008, and September 16, 2008, respectively. Signed by the Mayor on September 29, 2008, it was assigned Act No. 17-513 and transmitted to both Houses of Congress for its review. D.C. Law 17-262 became effective on November 19, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 18-106. — Law 18-106, the "F Street, N.W. Downtown Retail Priority Area Clarification Amendment Act of 2009", was introduced in Council and assigned Bill No. 18-303, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on November 3, 2009, and December 1, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-244 and transmitted to both Houses of Congress for its review. D.C. Law 18-106 became effective on March 3, 2010.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title: Section 7111 of D.C. Law 18-223 provided that subtitle L of title VII of the act may be cited as the "Retail Incentive Amendment Act of 2010".

§ 2-1217.72. Limitations on issuance of Bonds.

(a) Bonds shall not be issued pursuant to this subchapter to the extent the issuance will cause the aggregate principal amount of Bonds issued pursuant to this subchapter and the TIF Act to exceed \$500 million; provided, that the aggregate amount of TIF bonds for projects in the Central Business District, as defined in Title 11 of the District of Columbia Municipal Regulations, shall not exceed \$300 million.

(b) Bonds shall not be issued pursuant to this subchapter after September 30, 2015.

(Sept. 8, 2004, D.C. Law 15-185, § 3, 51 DCR 5941; Mar. 2, 2007, D.C. Law 16-192, § 2003, 53 DCR 6899; Sept. 24, 2010, D.C. Law 18-223, § 7112(b), 57 DCR 6242.)

Effect of amendments. — D.C. Law 16-192, in subsec. (a), substituted “\$500 million; provided, that the aggregate amount of TIF bonds for projects in the Central Business District, as defined in Title 11 of the District of Columbia Municipal Regulations, shall not exceed \$300 million” for “\$300 million”.

D.C. Law 18-223, in subsec. (b), substituted “September 30, 2015” for “December 31, 2013”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2003 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2003 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act

of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2003 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 7112(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

Legislative history of Law 16-192. — For Law 16-192, see notes following § 2-1217.02.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

§ 2-1217.73. Retail Priority Areas.

(a)(1) The Mayor shall identify areas within the District where:

(A) There exist barriers to entry that impede Retail Development Projects; and

(B) The proceeds of Bonds may be used to eliminate these barriers to entry and promote Retail Development Projects.

(2)(A) The Mayor may designate additional Retail Priority Areas by submitting to the Council for a 45-day period of review, excluding weekends, holidays, and periods of Council recess, a proposed resolution, which:

(i) Designates one or more Retail Priority Areas;

(ii) States the maximum aggregate principal amount of Bonds that may be issued with respect to each Retail Priority Area; and

(iii) States the latest date by which the Bonds may be issued with respect to each Retail Priority Area.

(B) In addition to the resolution, the Mayor shall submit to the Council information supporting the Mayor’s determinations concerning the use of TIF to promote retail development in each Retail Priority Area, including findings of the CFO that the proposed Retail Priority Area is not inconsistent with the financial plan and budget for the fiscal year of the District and does not exceed the limitations set forth in § 2-1217.72(a).

(C) If the Council does not approve or disapprove the proposed resolution within the 45-day period of review, excluding weekends, holidays, and periods of Council recess, the proposed resolution shall be deemed approved.

(b) In addition to Retail Priority Areas that may be approved pursuant to subsection (a) of this section:

(1) The Downtown Retail Priority Area is designated as a Retail Priority Area;

(2) The issuance of Bonds with respect to the Downtown Retail Priority Area, not to exceed the aggregate principal amount of \$30 million, is approved;

(3) The latest date for the issuance of such Bonds is September 30, 2015; and

(4) The base year for the calculation of Available Sales Tax Revenues shall be the fiscal year beginning October 1, 2002 and the base year for the calculation of Available Real Property Tax Revenues shall be the fiscal year beginning October 1, 2003.

(c) The Mayor shall prepare and deliver an annual report to the Council each year on January 1st through the year ending September 30, 2015. The annual report shall contain a listing and description of each Retail Development Project approved as a TIF Area pursuant to this subchapter. Each listing shall contain specific information about the nature of the Retail Development Project, the use of the proceeds of the Bonds, the projected Tax Increment Revenues attributable to each listed TIF Area, and any other information the Council may request regarding such TIF Areas.

(d) If the Mayor determines that a Retail Priority Area is no longer necessary, the Mayor may abolish the Retail Priority Area; provided, that if any Bonds are outstanding with respect to any TIF Area therein, the Mayor shall take no action to abolish the Retail Priority Area or that otherwise will adversely affect the security of the holders of the Bonds.

(e) The Mayor shall identify potential Retail Priority Areas. Within 180 days of September 8, 2004, the Mayor shall submit to the Council resolutions designating as Retail Priority Areas the following areas:

- (1) Columbia Heights;
- (2) Georgia Avenue;
- (3) Minnesota/Benning;
- (4) Shaw; and
- (5) H Street, NE Corridor.

(Sept. 8, 2004, D.C. Law 15-185, § 4, 51 DCR 5941; Sept. 24, 2010, D.C. Law 18-223, § 7112(c), 57 DCR 6242.)

Effect of amendments. — D.C. Law 18-223, in subsec. (b), substituted “September 30, 2015” for “4 years from the date that the Mayor establishes the Rules of Operation for the Downtown Retail Priority Area”; and, in subsec. (c), substituted “September 30, 2015” for “December 31, 2013”.

Emergency legislation. — For temporary (90 day) amendment of section, see §§ 7112(c) and 7113 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2152 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2152 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act

of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Resolutions. — Resolution 15-775, the “Fort Lincoln Washington Gateway Project Retail Priority Area Approval Resolution of 2004”, was approved effective December 7, 2004.

Resolution 15-776, the “Rhode Island Place Project Retail Priority Area Approval Resolution of 2004”, was approved effective December 7, 2004.

Resolution 16-430, the “Children’s Museum Project Retail Priority Area Approval Resolution of 2006”, was approved effective January 18, 2006.

Resolution 17-257, the “Great Streets Neighborhood Retail Priority Areas Approval Resolu-

tion of 2007", was approved effective July 10, 2007.

Editor's notes. — Section 7113 of D.C. Law

18-223 provided: "Sec. 7113. Applicability. Section 7112(c) shall apply as of November 21, 2009."

§ 2-1217.73a. Downtown retail priority area-demonstration project.

In the case of the Downtown Retail Priority Area, Retail Development Projects shall include, on a demonstration project basis, one or more restaurants; provided, that the total amount of Bonds available for such demonstration projects shall not be greater than 3% of the aggregate principal amount of Bonds authorized pursuant to § 2-1217.72(a). Notwithstanding the defined boundaries of the Downtown Retail Priority Area, the Mayor shall use best efforts to ensure that at least one demonstration project is located in Ward 7 or 8. Not later than 3 years from the issuance of Bonds for demonstration projects, the CFO shall report to the Mayor and the Council regarding the economic effects on the District of such projects.

(Sept. 8, 2004, D.C. Law 15-85, § 4a, as added Sept. 24, 2010, D.C. Law 18-223, § 7112(d), 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 7112(d) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

§ 2-1217.74. Rules of operation.

(a) Upon approval by resolution pursuant to § 2-1217.73(a) with respect to any Retail Priority Area, or upon September 8, 2004, in the case of the Downtown Retail Priority Area, the Mayor shall establish Rules of Operation with respect to each Retail Priority Area as the Mayor considers necessary or appropriate for:

(1) The approval and certification by the Mayor of Retail Development Projects within the Retail Priority Area as TIF Areas;

(2) The issuance of Bonds secured by the Tax Increment Revenues or any other security authorized by this subchapter which is generated by or relates to the Retail Development Projects;

(3) The allocation of the proceeds of the Bonds to fund Retail Development Costs of the Retail Development Projects; and

(4) Such other matters as the Mayor considers necessary or appropriate to achieve the goals and objectives for the Retail Priority Area.

(b) The Rules of Operation for the Downtown Retail Priority Area shall include the following:

(1) A rating system designed to rank Retail Development Projects based on the following objective criteria:

(A) The likelihood of Bond repayment based on projected Tax Increment Revenues or any other security authorized by this subchapter from or relating to the Retail Development Project;

(B) The uniqueness of the retailer or unique entertainment attraction;

(C) The likelihood that the retailer or unique entertainment attraction will attract other retailers to locate nearby;

(D) The position of the retailer or unique entertainment attraction in its market and whether the retailer or unique entertainment attraction is the first in its market to locate in the Downtown Retail Priority Area;

(E) The extent to which the retailer or unique entertainment attraction promotes the Downtown Retail Priority Area in its advertising;

(F) The vertical integration of the retailer or unique entertainment attraction;

(G) The intention of the retailer or unique entertainment attraction to locate on more than one level of the building in which it is located;

(H) Whether the retailer or unique entertainment attraction builds an expressive storefront;

(I) Whether the retailer or unique entertainment attraction is owned by a District resident or is based in the District;

(J) The amount of space occupied by the retailer or unique entertainment attraction; and

(K) Whether the retailer or unique entertainment attraction is one of multiple retailers or unique entertainment attractions that co-locate in the Downtown Retail Priority Area;

(2) A numeric formula based upon the foregoing rating system that, for any proposed Retail Development Project, will produce a dollar amount of proceeds of Bonds that shall be allocated to the Retail Development Project if it is approved as a TIF Area;

(3) The establishment of a committee comprised of the Mayor, retail brokers and property owners in the Downtown Retail Priority Area, and such other persons as the Mayor shall designate, which committee shall:

(A) Apply the rating system to proposed Retail Development Projects and review and revise the rating system from time to time as necessary to respond to market conditions;

(B) Adjust the formula for the allocation of Bond proceeds as may be necessary or appropriate to maximize the use of Bond proceeds to achieve the purposes of this subchapter;

(C) Recommend Retail Development Projects for designation as TIF Areas to the Mayor; and

(D) Take such other actions as the Mayor may consider necessary or appropriate to facilitate the selection and funding of TIF Areas in the Downtown Retail Priority Area;

(4)(A) A procedure pursuant to which the Mayor shall certify:

(i) The rating of Retail Development Project, based upon the rating system;

(ii) The amount of Bond proceeds that, based upon the allocation formula, may be allocated to Retail Development Projects; and

(iii) Retail Development Projects as TIF Areas; and

(B) The procedure shall permit the Mayor to suspend and re-institute from time to time the designation of TIF Areas pursuant to this subchapter in response to market conditions;

(5) A requirement that the owner of any building or tenant applying for the TIF in which a TIF Area is located enter into a development agreement, satisfactory to the Mayor, that sets forth:

(A) The goals and objectives for achieving the revitalization of retail development in the Downtown Retail Priority Area;

(B) Requirements for the leasing of retail space in the building in a manner that will advance the goals and objectives;

(C) The terms and conditions pursuant to which Bond proceeds will be advanced to pay Retail Development Costs incurred in connection with the TIF Area;

(D) The owner's agreement or tenant's agreement to sign an LSDBE certified business enterprise agreement that establishes a goal of hiring LSDBEs to perform construction or operations work, the costs of which equals 35% of the Bond proceeds.

(E) The owner's agreement or tenant's agreement to require the retailer of the Retail Development Project to execute a first source agreement with the Department of Employment Services that establishes a goal of hiring District residents for at least 51% of the new jobs created by the Retail Development Project;

(F) Such matters as may be required in connection with the issuance of the Bonds; and

(G) Such other matters as the Mayor determines to be necessary or appropriate in connection with such TIF Area;

(6) Requirements that the proceeds of the Bonds issued with respect to any TIF Area shall not be advanced to pay Retail Development Costs until the TIF Area is open for business to the general public; and

(7) Procedures and timetables for the approval of Retail Development Projects as TIF Areas that are designed to facilitate, and not impede, negotiations between building owners and retailers in the Downtown Retail Priority Area.

(c) The Rules of Operation shall be uniformly applied within any given Retail Priority Area, but may vary across different Retail Priority Areas to address the specific needs of each Retail Priority Area.

(Sept. 8, 2004, D.C. Law 15-185, § 5, 51 DCR 5941; Mar. 20, 2008, D.C. Law 17-129, § 2(b), 55 DCR 1532; Nov. 19, 2008, D.C. Law 17-262, § 2(b), 55 DCR 10887; Mar. 25, 2009, D.C. Law 17-353, § 227, 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-129 rewrote subsecs. (b)(1) and (5); and, in subsec. (c), deleted “Notwithstanding anything to the contrary herein, the Rules of Operation shall provide that a Retail Development Project that, either directly or as part of a larger development project, has already received proceeds of Bonds through another TIF program shall not be designated a TIF Area under this subchapter.”

D.C. Law 17-262, in subsec. (b)(6), substituted “that the proceeds of the Bonds issued with respect to any TIF Area” for “that Bonds

shall not be issued with respect to any TIF Area and the proceeds of the Bonds”.

D.C. Law 17-353, in subsec. (b)(1)(K), substituted “retailers or unique entertainment attractions that co-locate” for “retailers that co-locate”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Downtown Retail TIF Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-302, February 22, 2008, 55 DCR 2510).

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

Legislative history of Law 17-129. — For Law 17-129, see notes following § 2-1217.71.

Legislative history of Law 17-262. — For Law 17-262, see notes following § 2-1217.71.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

§ 2-1217.75. Use of Bond proceeds; funding agreement.

(a) When a Retail Development Project is certified as a TIF Area by the Mayor pursuant to this subchapter, the proceeds of Bonds issued with respect to the TIF Area shall be used to pay Retail Development Costs and shall be subject to such terms, conditions, and requirements as the Mayor determines to be in the best interests of the District and will further the purposes of this subchapter. The terms, conditions and requirements shall be included in an agreement entered into between the District and the recipient of the proceeds prior to the advance of the proceeds; provided, that, in the Downtown Retail Priority Area, Tax Increment Revenues or any other security authorized by this subchapter shall be used for the payment of debt service on Bonds issued to Bondholders arranged by the recipient of the proceeds of the Bonds prior to the issuance of the Bonds and the proceeds of the Bonds shall be available to the recipient only after the issuance of a certificate of occupancy for the Retail Development Project. In the case of Bonds issued with respect to the Downtown Retail Priority Area, the recipient of the proceeds of the Bonds shall guarantee the Bonds.

(b) In the case of the Downtown Retail Priority Area, Tax Increment Revenues and the proceeds of Bonds may also be used to pay costs and expenses:

(1) Incurred in connection with the start-up and administration of a TIF program in the Downtown Retail Priority Area (including feasibility studies, market studies, and legal costs), and marketing the TIF program and the Downtown Retail Priority Area to prospective retailers; provided, that the amount expended pursuant to this paragraph shall not exceed \$1 million in the aggregate; and

(2) Of establishing, maintaining, and operating a program to support parking for customers of retail businesses in the Downtown Retail Priority Area and providing streetscape and facade improvements in the Downtown Retail Priority Area; provided, that the amount expended pursuant to this paragraph shall not exceed \$5 million in the aggregate.

(Sept. 8, 2004, D.C. Law 15-185, § 6, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.76. Allocation of Tax Increment Revenues.

(a) Within 60 days after the certification of a TIF Area by the Mayor, the CFO shall provide for the allocation of Tax Increment Revenues within each TIF Area. The CFO shall establish one or more separate tax increment allocation accounts within the General Fund of the District of Columbia for the deposit and application of Available Sales Tax Revenues and Available Real

Property Tax Revenues from each TIF Area. Monies shall be transferred from such accounts at the times and in the amounts required pursuant to financing documents relating to any Bonds. Monies held or to be held in a tax allocation account may be used to (1) pay debt service on Bonds, (2) pay other costs due and payable under the applicable financing documents, and (3) to pay any other costs or expenses permitted by this subchapter. Monies in a tax allocation account or in any fund or account established under any financing documents may be pledged as security for the payment of debt service on Bonds.

(b) Notwithstanding any other law, after a TIF Area has been certified by the Mayor, the portion of Tax Increment Revenues that results from the real property and sales tax levied within the TIF Area each year beginning from the date of the certification of the TIF Area shall be paid to the CFO for deposit into one or more of the tax increment accounts established by the CFO pursuant to subsection (a) of this section.

(c) If Bonds have been issued and are outstanding, the amounts, if any, remaining in the tax increment accounts for a TIF Area at the end of each tax year, after provision for the payment of debt service on any Bonds, any costs of credit or liquidity enhancement, other costs, fees, and expenses of administering, carrying, and paying the Bonds and the funds, trusts, and escrows pertaining to them, and providing for reasonably required reserves, all as provided in the financing documents, and after payment of any other costs or expenses permitted by this subchapter, shall revert to the General Fund of the District of Columbia.

(Sept. 8, 2004, D.C. Law 15-185, § 7, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.77. Issuance of Bonds.

The issuance of Bonds, including any refunding Bonds, is authorized pursuant to § 1-204.90 to finance Retail Development Costs of TIF Areas certified by the Mayor pursuant to this subchapter. This subchapter constitutes an act of Council authorizing the issuance of Bonds, including refunding Bonds, as required by § 1-204.90. The Bonds shall be secured by Tax Increment Revenues in amounts not to exceed the limits provided for in this subchapter or other security authorized by this subchapter. The issuance of Bonds, including any refunding Bonds in specified aggregate principal amounts, shall be approved by the Mayor in accordance with this subchapter.

(Sept. 8, 2004, D.C. Law 15-185, § 8, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.78. Details of Bonds.

(a) The Mayor may take any action necessary or appropriate in accordance

with this subchapter in connection with the preparation, execution, issuance, sale, delivery, and payment of Bonds, including determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificate or book entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of each series of Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that they are properly applied to their respective eligible project and used to accomplish the purposes of this subchapter; and

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed.

(b) The Bonds shall contain a legend, which shall provide that the Bonds shall be special obligations of the District, shall be nonrecourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District (other than the Tax Increment Revenues or any other security authorized by this subchapter), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the same.

(d) The official seal of the District, or facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds may be issued at any time or from time to time in one or more issues and in one of more series.

(Sept. 8, 2004, D.C. Law 15-185, § 9, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.79. Security for Bonds.

(a) A series of Bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, or secured

by a loan agreement or other instrument giving power to a corporate trustee by means of which the District may do the following:

(1) Make and enter into any and all covenants and agreements with the trustee or the holders of the Bonds that the District may determine to be necessary or desirable covenants and agreements as to:

(A) The application, investment, deposit, use, and disposition of the proceeds of Bonds and the other monies, securities, and property of the District;

(B) The assignment by the District of its rights in any agreement;

(C) Terms and conditions upon which additional Bonds of the District may be issued;

(D) Providing for the appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(E) Vesting in a trustee for the benefit of the holders of Bonds, or in the bondholders directly, such rights and remedies as the District shall determine to be necessary or desirable;

(2) Pledge, mortgage or assign monies, agreements, property or other assets of the District, either presently in hand or to be received in the future, or both;

(3) Provide for bond insurance and letters of credit, or otherwise enhance the credit of and security for the payment of the Bonds; and

(4) Provide for any other matters of like or different character that in any way affect the security for or payment of the Bonds.

(b) Bonds are declared to be issued for essential public and governmental purposes. The Bonds and the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the Bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(c) The District does hereby pledge to and covenant and agree with the holders of any Bonds that, subject to the provisions of the financing documents, the District will not limit or alter the revenues pledged to secure the Bonds or the basis on which such revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the Bonds, will not in any way impair the rights or remedies of the holders, and will not modify in any way the exemptions from taxation provided for in this subchapter, until the Bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders, are fully met and discharged. This pledge and agreement of the District may be included as part of the contract with the holders of any of its Bonds. This subsection shall constitute a contract between the District and the holders of the Bonds authorized by this subchapter. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(d) Consistent with § 1-204.90(a)(4)(B) and, notwithstanding Article 9 of Title 28:

(1) A pledge made and security interest created in respect of any Bonds or pursuant to any related financing document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(Sept. 8, 2004, D.C. Law 15-185, § 10, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.80. Default.

If there shall be a default in the payment of the principal of, or interest on, any Bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the Bonds, the holders of the Bonds, or the trustee appointed to act on behalf of the holders of the Bonds, may, subject to the provisions of the financing documents, do the following:

(1) By action, writ, or other proceeding, enforce all rights of the holders of the Bonds, including the right to require the District to carry out and perform the terms of any agreement with the holders of the Bonds or its duties under this subchapter;

(2) By action, require the District to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the Bonds; and

(4) Declare all the Bonds due and payable, whether or not in advance of maturity and, if all the defaults be made good, annul the declaration and its consequences.

(Sept. 8, 2004, D.C. Law 15-185, § 11, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.81. Liability.

(a) The members of the Council, the Mayor, or any person executing Bonds shall not be liable personally on the Bonds by reason of the issuance thereof.

(b) Notwithstanding any other provision of this subchapter, the Bonds shall not be general obligations of the District and shall not be in any way a debt or liability of the District within the meaning of any debt or other limit prescribed

by law. The full faith and credit or the general taxing power of the District (other than the Tax Increment Revenues or other security authorized under this subchapter) shall not be pledged to secure the payment of any Bonds.

(Sept. 8, 2004, D.C. Law 15-185, § 12, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.82. Prior legislation.

This subchapter shall not adversely affect any actions taken, agreements entered into, pledge of security made or Bonds issued prior to September 8, 2004.

(Sept. 8, 2004, D.C. Law 15-185, § 13, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

§ 2-1217.83. Promulgation of rules and regulations.

The Mayor shall promulgate rules and regulations setting forth the criteria and procedures necessary to implement the provisions of this subchapter.

(Sept. 8, 2004, D.C. Law 15-185, § 14, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

Delegation of Authority. — Delegation of Mayor's Rulemaking Authority for the Retail Incentive Second Congressional Review Emergency Act of 2004 and Any Similar Succeeding

Legislation, see Mayor's Order 2004-146, August 26, 2004 (51 DCR 9194).

Delegation of Authority-Retail Incentive Act of 2004, see Mayor's Order 2005-195, December 13, 2005, (53 DCR 700).

§ 2-1217.84. Construction.

This subchapter shall be liberally construed to effect the purposes stated herein.

(Sept. 8, 2004, D.C. Law 15-185, § 15, 51 DCR 5941.)

Legislative history of Law 15-185. — For Law 15-185, see notes following § 2-1217.71.

Subchapter IX-B. Qualified Zone Academy Revenue Bond Projects.

§ 2-1217.101. Short title.

This subchapter may be cited as the "Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Act of 2005".

(Oct. 18, 2005, D.C. Law 16-28, § 1, 52 DCR 8093.)

Emergency legislation. — For temporary (90 day) addition, see §§ 2 to 18 of Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Emergency Act of 2005 (D.C. Act 16-143, July 26, 2005, 52 DCR 7171).

Legislative history of Law 16-28. — Law 16-28, the “Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Act of 2005”, was introduced in Council and assigned Bill No. 16-256 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 7, 2005, and July 6, 2005, respectively. Signed by the Mayor on July 14, 2005, it was

assigned Act No. 16-137 and transmitted to both Houses of Congress for its review. D.C. Law 16-28 became effective on October 18, 2005.

Delegation of Authority. — Delegation of Authority—Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Act of 2005, see Mayor’s Order 2007-93, April 13, 2007 (54 DCR 8873).

Resolutions. — Resolution 17-495, the “Qualified Zone Academy Revenue Bonds Project Approval Resolution of 2008”, was approved effective January 8, 2008.

§ 2-1217.102. Definitions.

For the purpose of this subchapter, the term:

(1) “Authorized Delegate” means the Mayor, the Chief Financial Officer, or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated, or to whom the foregoing individuals have subdelegated, any of the Mayor’s functions under this subchapter pursuant to § 1-204.22(6).

(2) “Available Real Property Tax Revenues” means the revenues resulting from the imposition of the tax under Chapter 8 of Title 47, including any penalties and interest charges thereon, exclusive of revenues that are or will be pledged pursuant to §§ 1-204.81 and 1-204.90, and payments in lieu of such taxes.

(3) “Bond Counsel” means a firm or firms of attorneys designated as District bond counsel from time to time by the Mayor.

(4) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subchapter.

(5) “Chief Financial Officer” means the Chief Financial Officer of the District of Columbia.

(6) “Closing Documents” means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) “Eligible project” means the projects in the area of elementary, secondary, or college and university facilities undertaken at a Qualifying School which are subject to financing pursuant to § 1-204.90 as a qualified zone academy bond within the meaning of section 1397E(d)(1) of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 821; 26 U.S.C. § 1397E(d)(1)).

(8) “Financing Documents” means the documents other than Closing Documents that relate to the financing, refinancing or reimbursement of the costs of eligible projects to be effected through the issuance, sale, and delivery of the bonds, including any offering document, and any required supplements to any such documents.

(9) “Home Rule Act” means Chapter 2 of Title 1 [§ 1-201.01 et seq.].

(10) “Issuance Costs” means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the bonds, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the bonds, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees, compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) “QZAB Collection Agent” means any bank, trust company, or national banking association with requisite trust powers and with an office in the District designated to serve in this capacity by the Mayor.

(12) “QZAB Collection Agreement” means the collection agreement between the District and the QZAB Collection Agent authorized in § 2-1217.106.

(13) “QZAB Pledged Account” means one or more accounts created and maintained by the QZAB Collection Agent for the benefit of the owners of a series of the bonds and funded by the deposit of some portion of Available Real Property Tax Revenues and other funds in amounts as determined by the Mayor in the QZAB Collection Agreement.

(14) “Qualifying School” means any public school or public charter school the Council approves, by resolution, for financing, refinancing or reimbursement of the costs of its eligible project pursuant to the provisions of § 1-204.90 and this subchapter.

(Oct. 18, 2005, D.C. Law 16-28, § 2, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.103. Bond authorization.

(a) Pursuant to § 1-204.90, the Council authorizes the issuance of bonds.

(b) One or more series of bonds in multiple separate series may be issued for the purpose of assisting in financing, refinancing, and reimbursing the costs of eligible projects. Refunding bonds may be issued to refund bonds. The aggregate principal amount of bonds, other than refunding bonds, shall not exceed the amount authorized under section 1397E of Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 821; 26 U.S.C. § 1397E).

(c) The Mayor is authorized to take any action necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds pursuant to § 1-204.90, including:

(1) Approving the issuance, sale, and delivery of the bonds;

(2) Making loans, grants or allocating funds, purchasing any mortgage, note, or other security, or purchasing, leasing, or selling of any property for the

purpose of financing, refinancing, or reimbursing the costs of an eligible project;

(3) Entering into any agreement concerning the acquisition, use, or disposition of any available revenues, assets, or property;

(4) Entering into such Financing Documents as may be necessary or appropriate for the issuance, security, and administration of the bonds, the investment of proceeds and moneys in the accounts provided for in, or pursuant to this subchapter, the application of the proceeds of the bonds and the moneys and investments in such accounts, and for the purposes provided in this subchapter, including Financing Documents with Qualifying Schools;

(5) Setting forth the requirements for an eligible project to comply with the applicable eligibility requirements pursuant to this subchapter in an agreement between the District and the District of Columbia Board of Education with respect to public schools or each Qualifying School with respect to public charter schools;

(6) Establishing any fund with respect to the bonds as required by the Financing Documents; and

(7) Refunding the bonds through the issuance of refunding bonds.

(Oct. 18, 2005, D.C. Law 16-28, § 3, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.104. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds to be issued and denominations of the bonds;

(3) The date or dates of issuance, sale, and delivery of the bonds, and the maturity date or dates of the bonds;

(4) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(5) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(6) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(7) The time and place of payment of the bonds;

(8) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied to one or more Qualifying Schools and used to accomplish the purposes of this subchapter;

(9) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(10) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(Oct. 18, 2005, D.C. Law 16-28, § 4, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.105. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds and the eligibility of the bonds to be qualified zone academy bonds within the meaning of section 1397E(d)(1) of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 821; 26 U.S.C. § 1397E(d)(1)).

(e) Unit A of Chapter 3 of this title and subchapter III-A of Chapter 3 of Title 47 [§ 47-351.01 et seq.], shall not apply to whatever contract the Mayor may from time to time enter, or the Mayor may determine to be necessary or appropriate, for purposes of this subchapter.

(Oct. 18, 2005, D.C. Law 16-28, § 5, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.106. Payment and security.

(a) The District is hereby authorized to pledge the funds on deposit in the QZAB Pledged Account as security for the payment of principal of, and premium, if any, on the bonds.

(b) The bonds shall be payable solely from the funds on deposit in the QZAB Pledged Account and income realized from the temporary investment thereof, and other moneys as provided in the Financing Documents.

(c) The funds for the payment of the bonds shall be deposited with the QZAB Collection Agent pursuant to the QZAB Collection Agreement and used only in accordance with the terms of the agreement.

(d) The Mayor may, without regard to any act or resolution of the Council now existing, designate a QZAB Collection Agent under the QZAB Collection Agreement. The Mayor may execute and deliver the QZAB Collection Agreement, on behalf of the District and in the Mayor's official capacity, containing the terms that the Mayor considers necessary or appropriate to carry out the purposes of this subchapter.

(e) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the bonds pursuant to the Financing Documents.

(f) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

(Oct. 18, 2005, D.C. Law 16-28, § 6, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.107. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its

behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(Oct. 18, 2005, D.C. Law 16-28, § 7, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.108. Determination of eligible projects.

(a) The Mayor is authorized to establish the process and criteria for the determination of which public schools or public charter schools will be presented to the Council for approval as a Qualifying School.

(b) If the Mayor determines to present a public school or public charter school for Council approval as a Qualifying School, the Mayor shall enter into negotiations with the District of Columbia Board of Education with respect to public schools or with the respective public charter school with respect to public charter schools to determine the amount of bond proceeds and Available Real Property Tax Revenues to be allocated and the terms and conditions of the agreement between the District and the District of Columbia Board of Education or the Qualifying School.

(c) The Mayor shall transmit to the Council a proposed resolution approving the issuance of a series of bonds and identifying the Qualifying Schools, the amount of the project or projects eligible to be financed with the bond proceeds, and the amount of Available Real Property Tax Revenues to be allocated to the bonds.

(Oct. 18, 2005, D.C. Law 16-28, § 8, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.109. Allocation of Available Real Property Tax Revenues.

Within 60 days after the approval of a resolution specified in § 2-1217.108(c), the Chief Financial Officer shall provide for the allocation of

Available Real Property Tax Revenues for the series of the bonds. The Chief Financial Officer shall transfer collected Available Real Property Tax Revenues to the appropriate QZAB Pledged Account in the amounts and at the times specified in the QZAB Collection Agreement and the Financing Documents. Monies held or to be held in a QZAB Pledged Account may be used to pay Issuance Costs associated with the bonds, to pay the principal of the series of the bonds, and to pay other amounts authorized by this subchapter. The QZAB Pledged Accounts shall be non-lapsing.

(Oct. 18, 2005, D.C. Law 16-28, § 9, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.110. Bond security.

(a) The bonds issued pursuant to this subchapter are declared to be issued for essential public and governmental purposes.

(b) The District does hereby pledge to and covenant and agree with the holders of any bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis upon which Available Real Property Tax Revenues are allocated, applied, and pledged pursuant to this subchapter; will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds; will not in any way impair the rights or remedies of the holders of the bonds; and will not modify in any way the exemptions from District taxation provided for in this subchapter, until the bonds, together with interest thereon, are fully met and discharged. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

(c) It is the intention of the Council that a pledge made in respect of the bonds shall be valid and binding from the time the Available Real Property Tax Revenues or other funds are deposited in the QZAB Pledged Account; that when deposited in the QZAB Pledge Account, the money or property so pledged and deposited shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having any claim of any kind against the District, whether or not the parties have notice of the lien. This subchapter, any resolution adopted pursuant to this subchapter, any trust agreement, or any other instrument by which a pledge is created do not need to be recorded or filed under any provisions of the Uniform Commercial Code to be valid, binding, and effective against the parties.

(Oct. 18, 2005, D.C. Law 16-28, § 10, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.111. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may

delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subchapter.

(Oct. 18, 2005, D.C. Law 16-28, § 11, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.112. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) Nothing contained in the bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in § 2-1217.107.

(c) All covenants, obligations, and agreements of the District contained in this subchapter, the bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subchapter.

(d) No person, including, but not limited to, any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subchapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Oct. 18, 2005, D.C. Law 16-28, § 12, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.113. District officials.

(a) Except as otherwise provided in § 2-1217.112(d), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subchapter, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(Oct. 18, 2005, D.C. Law 16-28, § 13, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.114. Maintenance of documents.

Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

(Oct. 18, 2005, D.C. Law 16-28, § 14, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.115. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(Oct. 18, 2005, D.C. Law 16-28, § 15, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.116. Disclaimer.

(a) The issuance of the bonds is in the discretion of the District. Nothing contained in this subchapter, the bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any bonds for the benefit of the Qualifying Schools or to participate in or assist the Qualifying Schools in any way with financing, refinancing, or reimbursing the costs of eligible projects.

(b) The District reserves the right to issue the bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations will be reserved or will be available at the time of the proposed issuance of the bonds.

(Oct. 18, 2005, D.C. Law 16-28, § 16, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

§ 2-1217.117. Severability.

If any particular provision of this subchapter, or the application thereof to any person or circumstance is held invalid, the remainder of this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subchapter is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuance of the bonds, and the validity of the bonds shall not be adversely affected.

(Oct. 18, 2005, D.C. Law 16-28, § 17, 52 DCR 8093.)

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.101.

Legislative history of Law 16-28. — For Law 16-28, see notes following § 2-1217.01.

Subchapter IX-C. Southwest Waterfront Redevelopment.

PART A.

BOND FINANCING.

§ 2-1217.131. Definitions.

For the purposes of this subchapter, the term:

(1) “Authorized Delegate” means the City Administrator, the Chief Financial Officer, the District of Columbia Treasurer, the Deputy Mayor for Planning and Economic Development, or any officer, employee, or agency of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under D.C. Law 17-252 pursuant to § 1-204.22(6) and has been designated as an authorized delegate for purposes of D.C. Law 17-252.

(2) “Available Increment” shall have the same meaning as provided in the Reserve Agreement.

(3) “Available Sales Tax Revenues” means the revenues generated in the Southwest Waterfront PILOT/TIF Area in any fiscal year of the District commencing on the Commencement Date resulting from the imposition of the sales tax under Chapter 20 of Title 47, including penalty and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to § 10-1202.08; provided, that with respect to the Fish Market, the Available Sales Tax Revenues shall be the sales tax revenues in excess of an amount equal to the sales tax revenues for fiscal year 2008. The term “Available Sales Tax Revenues” shall include sales tax revenues from any business existing in the Southwest Waterfront PILOT/TIF Area on October 22, 2008, only after the business has re-opened as a result of the development of any portion of the project.

(4) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(5) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subchapter.

(6) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia established by § 1-204.25(a).

(7) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(8) "Commencement Date" means the date upon which the 1st parcel of real estate within the Southwest Waterfront PILOT/TIF Area is transferred to the Master Developer.

(9) "Consumer Price Index" means the index number of retail commodities prices designated "Consumer Price Index-all items CPIU (1996=100) Washington-Baltimore DC-MD-VA-WA" as published by the United States Department of Labor, Bureau of Labor Statistics (or any successor agency thereto), appropriately adjusted.

(10) "Debt Service" means payment of principal, premium, if any, and interest on the bonds.

(11) "Development Costs" means all costs and expenses incurred in connection with the development, redevelopment, purchase, acquisition, protection, financing, construction, expansion, reconstruction, rehabilitation, renovation and repair, and the furnishing and equipping of the project, including:

(A) The costs of demolishing or removing roads, utilities, sidewalks, underground facilities, buildings or structures, and other improvements located on, and site preparation of, including environmental remediation, the land acquired or used for, or in connection with, the project, including costs incurred to resolve existing leaseholder interests in portions of the project site that will be re-conveyed to the District as public infrastructure;

(B) Costs of relocation, construction, and redevelopment of the project, including entitlement, development, and construction management fees;

(C) Costs incurred for publicly-owned utility lines, structures, public roads, public parks, or equipment located within or necessary to serve the project;

(D) Interest on the bonds prior to, and during, the construction of the project;

(E) Provisions for reserves for extraordinary repairs and replacements;

(F) Expenses incurred for architectural, engineering, energy efficiency technology, design and consulting, financial, and legal services;

(G) Fees for letters of credit, bond insurance, debt service reserve insurance, surety bonds, or similar credit or liquidity enhancement instruments;

(H) Costs and expenses associated with the conduct and preparation of specification and feasibility studies, plans, surveys, historic structure reports, and estimates of expenses and revenues;

(I) Expenses necessary or incident to issuing the bonds and determining the feasibility and the fiscal impact of financing the acquisition, construction, or redevelopment of the project; and

(J) The provision of an allowance for contingencies and initial working capital.

(12) “Financing Documents” means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any offering document, and any required supplements to any such documents.

(13) “Fish Market” means the property known for assessment and taxation purposes as Lots 850, 846, and 847, Square 473, and the adjacent riparian area.

(14) “Home Rule Act” means Chapter 2 of Title 1 [§ 1-201.01 et seq.].

(15) “Master Developer” means the development entity to which the District transfers the leasehold interest in the Southwest Waterfront PILOT/TIF Area and which is responsible for the planned development of the entire Southwest Waterfront PILOT/TIF Area, including the project.

(16) “Project” means the publicly owned infrastructure located within the Southwest Waterfront PILOT/TIF Area, including streets, parking facilities, sidewalks, walkways, streetscapes, parks, bulkheads, piers, curbs, gutters, and gas, electric, and water utility lines, and the acquisition, equipping, relocation, construction, and redevelopment of certain public facilities, including parks.

(17) “Reserve Agreement” means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A. and Financial Security Assurance, Inc.

(18) “Southwest Waterfront Fund” means the fund created by § 2-1217.133.

(19) “Southwest Waterfront Improvement Benefit District” means the special assessment district established by § 47-895.02.

(20) “Southwest Waterfront PILOT” or “PILOT” means the payment in lieu of taxes from the Southwest Waterfront PILOT/TIF Area required by § 47-4615.

(21) “Southwest Waterfront PILOT Base Amount” means \$945,000.

(22) “Southwest Waterfront PILOT Increment” means the amount of the Southwest Waterfront PILOT that exceeds the Southwest Waterfront PILOT Base Amount.

(23) “Southwest Waterfront PILOT/TIF Area” means the following geographic area:

(A) Approximately 23 acres of land area between the southern curb line of Maine Avenue, S.W., and the bulkhead paralleling the Washington Channel from the western edge of the Fish Market to the western curb of 6th Street, S.W., to the eastern edge of Lot 843, Square 473, the eastern edge of Lots 883, 884, and 885, Square 503, to the eastern edge of parcel 25⁵/₁₅, to the western edge of the P Street, S.W., right-of-way; and

(B) The riparian area and piers associated with the land described in subparagraph (A) of this paragraph, which include:

- (i) The Fish Market;
- (ii) The Capital Yacht Club;
- (iii) The Gangplank Marina; and
- (iv) Piers 4 and 5.

(24) “Southwest Waterfront Special Assessment” means the special as-

assessment relating to the Southwest Waterfront Improvement Benefit District established by § 47-895.02.

(Oct. 22, 2008, D.C. Law 17-252, § 101, 55 DCR 9251.)

Legislative history of Law 17-252. — Law 17-252, the “Southwest Waterfront Bond Financing Act of 2008”, was introduced in Council and assigned Bill No. 17-591 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second

readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-499 and transmitted to both Houses of Congress for its review. D.C. Law 17-252 became effective on October 22, 2008.

§ 2-1217.132. Findings.

The Council finds that:

(1) The Southwest Waterfront is a section of the District that requires financial assistance for its redevelopment because the scale of the project includes rebuilding the majority of the neighborhood and replacing existing infrastructure. The project will aid in the redevelopment by providing financial assistance to support the portions of the Southwest Waterfront that will revert to the District as publicly owned infrastructure and parks.

(2) Section 1-204.90 provides that the Council may, by act, authorize the issuance of District bonds to borrow money to finance, refinance, or reimburse, and to assist in the financing, refinancing, or reimbursing of, undertakings in certain areas designated in § 1-204.90 where the ultimate obligation to repay the bonds is that of one or more governmental persons or entities.

(3) Section 1-204.90 provides that bonds may be issued to assist in undertakings for the economic development of the District.

(4) The authorization, issuance, sale, and delivery of bonds for the payment of costs of the project are desirable, are in the public interest, and will accomplish the purposes and intent of § 1-204.90.

(Oct. 22, 2008, D.C. Law 17-252, § 102, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.133. Creation of the Southwest Waterfront Fund.

(a) There is established as a nonlapsing fund the Southwest Waterfront Fund. The Available Sales Tax Revenues, the Southwest Waterfront Special Assessment (if any), and the Southwest Waterfront PILOT Increment shall be deposited into the Southwest Waterfront Fund. The Chief Financial Officer shall pay from the Southwest Waterfront Fund the Southwest Waterfront PILOT Base Amount into the General Fund of the District of Columbia. The Mayor may pledge and create a security interest in the funds in the Southwest Waterfront Fund to finance, refinance, or reimburse Development Costs of the project, to pay the Debt Service, or to secure bonds without further action by the Council as permitted by § 1-204.90(f). The Chief Financial Officer shall pay from the Southwest Waterfront Fund the annual costs of administering the Southwest Waterfront Improvement Benefit District established by § 47-

895.02. If bonds are issued, the payment shall be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the bonds.

(b) If, at the end of any fiscal year of the District following the issuance of the bonds, the value of cash and investments in the Southwest Waterfront Fund exceeds the amount of all payments authorized by this subchapter and the Financing Documents during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia unless the District elects to use the excess to redeem the bonds prior to maturity.

(Oct. 22, 2008, D.C. Law 17-252, § 103, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.134. Creation of the Southwest Waterfront PILOT/TIF Area.

(a) There is created the Southwest Waterfront PILOT/TIF Area, the Available Sales Tax Revenues from which shall be allocated as provided in this subchapter.

(b) Beginning on the Commencement Date, the Available Sales Tax Revenues from the Southwest Waterfront PILOT/TIF Area shall be allocated and paid into the Southwest Waterfront Fund and used for any of the purposes described in § 2-1217.133. The termination date for the allocation of Available Sales Tax Revenues shall be the earlier of:

(1) September 30, 2044; or

(2) The day after all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(Oct. 22, 2008, D.C. Law 17-252, § 104, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.135. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$198 million. The bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in § 2-1217.136; provided, that within 60 days prior to the issuance of any bonds, the Chief Financial Officer shall submit to the Mayor and the Council a report to determine the subsidy level needed from the District for the project.

(b) The proceeds of the bonds shall be used as follows:

(1) An amount not to exceed \$148 million in 2008 dollars (adjusted for inflation by the Consumer Price Index) may be used for payment of Development Costs; and

(2) The balance of the proceeds may be used to pay the financing costs incurred by the District and to fund capitalized interest and required reserves.

(c) The Mayor may pay from the proceeds of the bonds the financing costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, financial advisory, bond insurance or other credit enhancement, marketing and selling the bonds, and printing costs and expenses.

(Oct. 22, 2008, D.C. Law 17-252, § 105, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.136. Payment and security.

(a) Except as may be otherwise provided in this subchapter, Debt Service shall be payable from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues deposited into the Southwest Waterfront Fund, including income realized from the investment of those receipts and revenues, and other funds that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

(b) There is further allocated to payment of Debt Service the Available Increment, subordinate to the allocation of the Available Increment to the Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve Agreement and to the extent that the Reserve Agreement continues to apply to the Available Increment, to be used for the payment of Debt Service to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay Debt Service. The allocation of Available Increment authorized by this subsection shall be made in compliance with all existing contractual obligations of the District with respect to the Available Increment and shall terminate on the date on which all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(c) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond holders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

(d) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

(Oct. 22, 2008, D.C. Law 17-252, § 106, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.137. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with D.C. Law 17-252 in connection with the

preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the bonds, including a determination the bonds may be issued in certificated or book-entry form;
- (2) The principal amount of the bonds to be issued and denominations of the bonds;
- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the bonds, and the maturity date or dates of the bonds;
- (5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
- (6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;
- (8) The time and place of payment of the bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of Chapter 2 of Title 1 and D.C. Law 17-252;
- (10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and
- (11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the taxes and revenues allocated to the Southwest Waterfront Fund or the Available Increment), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds and the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the bonds,

shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District pledges, covenants, and agrees with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the bonds or the basis on which the revenues pledged to secure the bonds are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way the exemptions from taxation provided for in D.C. Law 17-252, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, subchapter VII of Chapter 8 of Title 47 [§ 47-895.01 et seq.], D.C. Law 17-252, D.C. Law 17-252 shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Article 9 of Title 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(Oct. 22, 2008, D.C. Law 17-252, § 107, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.138. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been

authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

(e) Unit A of Chapter 3 of this title and subchapter III-A of Chapter 3 of Title 47 shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of D.C. Law 17-252.

(Oct. 22, 2008, D.C. Law 17-252, § 108, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.139. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(Oct. 22, 2008, D.C. Law 17-252, § 109, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.140. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the

taxing power of the District (other than the taxes and revenues allocated to the Southwest Waterfront Fund and the Available Increment), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) No person, including, but not limited to, any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subchapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(Oct. 22, 2008, D.C. Law 17-252, § 110, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.141. District officials.

(a) Except as otherwise provided in § 2-1217.140(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds, be subject to any personal liability by reason of the issuance of the bonds, or be personally liable for any representations, warranties, covenants, obligations, or agreements of the District contained in this subchapter, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(Oct. 22, 2008, D.C. Law 17-252, § 111, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.142. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(Oct. 22, 2008, D.C. Law 17-252, § 112, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

§ 2-1217.143. Payment In Lieu of Taxes Act not to apply.

D.C. Law 17-252 shall apply notwithstanding the provisions of Part E of subchapter IV of Chapter 3 of Title 1.

(Oct. 22, 2008, D.C. Law 17-252, § 113, 55 DCR 9251.)

Legislative history of Law 17-252. — For Law 17-252, see notes following § 2-1217.131.

PART B.

AFFORDABLE HOUSING.

§ 2-1217.151. Affordable housing.

(a) Notwithstanding any other provision of law, § 2-1226.02(b) and any related provisions imposing any Affordable requirements shall not apply to any Residential Units in excess of 500 Residential Units that are to be constructed in the Mixed-Use Development on the Southwest Waterfront Property; provided, that the GFA of the Affordable Dwelling Units to be constructed is no less than 160,000 GFA.

(b) With respect to any Residential Units in excess of 500 Residential Units that are to be constructed in the Mixed-Use Development on the Southwest Waterfront Property, no less than 20% of the GFA of such additional units shall be Workforce Housing. Eighty thousand GFA of such Workforce Housing required under this provision shall be allocated to the construction of 100% AMI Units. The GFA of any Workforce Housing required under this provision in excess of 80,000 GFA may be allocated at the developer's discretion either to 100% AMI Units or to 120% AMI Units.

(c) All future amendments to the Land Disposition Agreement shall be submitted to the Council for approval in accordance with the procedures set forth in § 10-801(b-1)(6).

(d) For the purposes of this section, the term:

(1) "Affordable" shall have the same meaning as provided in § 2-1226.02(b)(2).

(2) "Affordable Dwelling Unit" shall have the same meaning as the term "ADU" as set forth in the Land Disposition Agreement.

(3) "Area median income" shall have the same meaning as provided in § 2-1226.02.

(4) "Gross Floor Area" or "GFA" shall have the same meaning as provided in the Land Disposition Agreement.

(5) "Land Disposition Agreement" means the amended and restated land disposition agreement by and between the District of Columbia and Hoffman-Struever Waterfront L.L.C. for the Southwest Waterfront Project dated May

13, 2009, and as amended by the First Amendment dated June 10, 2010 and the Second Amendment dated December 3, 2010.

(6) "Mixed-Use Development" shall have the same meaning as provided in the Land Disposition Agreement.

(7) "Residential Unit" shall have the same meaning as provided in the Land Disposition Agreement.

(8) "Southwest Waterfront Property" shall have the same meaning as provided in the Land Disposition Agreement.

(9) "Workforce Housing" shall mean 100% AMI Units and 120% AMI Units.

(10) "100% AMI Units" shall mean Residential Units that are affordable to households consisting of one or more persons with income equal to or less than 100% of the area median income.

(11) "120% AMI Units" shall mean Residential Units that are affordable to households consisting of one or more persons with income equal to or less than 120% of the area median income.

(Apr. 8, 2011, D.C. Law 18-359, § 2, 58 DCR 767.)

Legislative history of Law 18-359. — Law 18-359, the "Southwest Waterfront Redevelopment Clarification Act of 2010", was introduced in Council and assigned Bill No. 18-1075, which was referred to the Committee on Economic Development. The Bill was adopted on first and

second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-709 and transmitted to both Houses of Congress for its review. D.C. Law 18-359 became effective on April 8, 2011.

Subchapter X. National Capital Revitalization Corporation.

PART A.

NATIONAL CAPITAL REVITALIZATION CORPORATION. [REPEALED].

§§ 2-1219.01 to 2-1219.29. Definitions; establishment of the corporation; purposes; fiscal year; board of directors; meetings of the board; officers and employees; limitations of actions; relation to other laws; establishment of enterprise fund; prohibition on political activity; rules with respect to gifts, procurement of goods and services, property disposition, conflict of interest; conflict of interest; disclosure; waiver of bar against participation by interested party; revitalization plan; performance plan; independent audit; evaluation; criteria for assistance; general powers; subsidiaries; revolving funds; revenue bonds, notes, or other obli-

gations; eminent domain; priority development areas; redevelopment districts; allocation of tax increment revenues; determination, publication, collection, and deposit of tax increment revenues; tax increment revenue bonds; certification of borrowings; district pledges; no taxing power; intragovernmental cooperation; dissolution; termination of affairs; transfer; assignment; assumption of other powers; duties; establishment of the RLA revitalization corporation; board of directors and management; powers; transfer of functions, duties, and powers of the redevelopment land agency to the RLA revitalization corporation; transfer of assets of the redevelopment land agency to the RLA revitalization corporation; distribution of income between the RLA revitalization corporation and the department of housing and community development; transfer of good faith deposits and lease deposits; responsibility for liabilities; reasonable efforts by the department of housing and community development; RLA revitalization corporation and department of housing and community development budget submissions. [Repealed].

Repealed.

(Sept. 11, 1998, D.C. Law 12-144, § 2, 45 DCR 3747; Oct. 16, 1998, D.C. Law 12-169, § 301(a), 45 DCR 5187; Mar. 26, 1999, D.C. Law 12-175, § 2401(a), 45 DCR 7193; Apr. 12, 2000, D.C. Law 13-91, § 128(a), 47 DCR 520; Nov. 13, 2003, D.C. Law 15-39, § 233(a), 50 DCR 5668; Apr. 5, 2005, D.C. Law 15-286, § 3(a), 52 DCR 859; Mar. 26, 2008, D.C. Law 17-138, § 103(a), 55 DCR 1689.)

Prior Codifications. — 1981 Ed., § 1-2295.1.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Temporary Amendment Act of 2004 (D.C. Law 15-193, Sept. 30, 2004, law notification 51 DCR 9804).

D.C. Law 17-53, §§ 103, 104, and 601 repealed provisions as follows:

“Sec. 103. (a) The National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 et seq.), is repealed.

“(b) This section shall apply as of October 1, 2007.

“Sec. 104. (a) The Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.01 et seq.), is repealed.

“(b) This section shall apply as of October 1, 2007.”

"TITLE VI. CONFORMING AMENDMENTS.

"Sec. 601. Subtitle P of Title II of the Fiscal Year 2008 Budget Support Act of 2007, signed by the Mayor on June 28, 2007 (D.C. Act 17-63), is repealed."

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2001(a) of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), and see § 2001(a) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

For temporary (90-day) amendment of section, see § 2001(a) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

For temporary (90 day) amendment of section, see § 233(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 233(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 2(a) of National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Emergency Amendment Act of 2004 (D.C. Act 15-440, May 21, 2004, 51 DCR 5967).

For temporary (90 day) amendment of section, see § 2(a) of National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-515, August 2,

Legislative history of Law 12-144. — Law 12-144, the "National Capital Revitalization Corporation Act of 1998," was introduced in Council and assigned Bill No. 12-514, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on March 3, 1998, and April 7, 1998, respectively. Signed by the Mayor on May 5, 1998, it was assigned Act No. 12-355 and transmitted to both Houses of Congress for its review. D.C. Law 12-144 became effective on September 11, 1998.

Legislative history of Law 12-169. — For legislative history of D.C. Law 12-169, see His-

torical and Statutory Notes following § 2-1217.11.

Legislative history of Law 12-175. — For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 2-1203.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

Legislative history of Law 15-39. — Law 15-39, the "Fiscal Year 2004 Budget Support Act of 2003", was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

Legislative history of Law 15-286. — Law 15-286, the "National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-752, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-679 and transmitted to both Houses of Congress for its review. D.C. Law 15-286 became effective on April 5, 2005.

Legislative history of Law 17-138. — Law 17-138, the "National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008", was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Effective date. — Section 103(b) of Law 17-138 provided that this section shall apply as of October 1, 2007.

Editor's notes. — Establishment—Task Force on Commercial and Residential Development, see Mayor's Order 2001-149, October 3, 2001 (48 DCR 9526).

Establishment—Task Force on the Impact of the Terrorist Attacks on the District Economy and Consumer Confidence, see Mayor's Order 2001-151, October 3, 2001 (48 DCR 9531).

PART B.

RLA REVITALIZATION CORPORATION.

§§ 2-1219.31 to 2-1219.38. Establishment of the RLA Revitalization Corporation; board of directors and management; powers; transfer of functions, duties, and powers of the Redevelopment Land Agency to the RLA Revitalization Corporation; transfer of assets of the Redevelopment Land Agency to the RLA Revitalization Corporation; Distribution of income between the RLA Revitalization Corporation and the Department of Housing and Community Development; distribution of income between RLA Revitalization Corporation and the District; transfer of good faith deposits and lease deposits; responsibility for liabilities; reasonable efforts by the Department of Housing and Community Development; RLA Revitalization Corporation and Department of Housing and Community Development budget submissions. [Repealed].

Repealed.

(Sept. 11, 1998, D.C. Law 12-144, § 30a, as added Oct. 1, 2002, D.C. Law 14-188, § 2(c), 49 DCR 6516; Mar. 26, 2008, D.C. Law 17-138, § 103(a), 55 DCR 1689.)

Legislative history of Law 14-188. — For Law 14-188, see notes following § 2-1219.29.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1219.01.

Resolutions. — Resolution 15-601, the “Disposition of Lot 831 in Square 560 Approval Resolution of 2004”, was approved effective July 13, 2004.

Resolution 15-811, the “Disposition of Lot 89 in Square 542 Approval Resolution of 2005”, was approved effective December 21, 2004.

Resolution 16-530, the “Disposition of Land Interest Held in 401 M Street, S.W., Lot 0089

Square 0542, Approval Resolution of 2006”, was approved effective February 19, 2006.

Resolution 16-849, the “Development of Small Parcels Resolution of 2006”, was approved effective October 27, 2006.

Resolution 17-286, the “Disposition of Lot 27 and a Portion of Lot 832 in Square 560 Emergency Approval Resolution of 2007”, was approved effective July 10, 2007.

Resolution 17-297, the “RLARC Disposition of Lots 30 and 31 in Square 2664 Emergency Approval Resolution of 2007”, was approved effective July 10, 2007.

PART C.

TRANSFER OF CERTAIN NCRC AND RLARC PROPERTIES.

§ 2-1219.51. **Transfer of Southwest Waterfront Properties.**
[Repealed].

Repealed.

(Sept. 11, 1998, D.C. Law 12-144, § 30aa, as added Dec. 7, 2004, D.C. Law 15-219, § 201(a)(4), 51 DCR 9142; Mar. 14, 2007, D.C. Law 16-287, § 101(a), 54 DCR 969; Mar. 26, 2008, D.C. Law 17-138, § 103(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 201(a)(4) of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — Law 15-219, the “Anacostia Waterfront Corporation Act of 2004”, was introduced in Council and assigned Bill No. 15-616, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 5, 2004, it was assigned Act No. 15-527 and transmitted to both Houses of Congress for its review. D.C. Law 15-219 became effective on December 7, 2004.

Legislative history of Law 16-287. — Law 16-287, the “National Capital Revitalization Corporation Asset Transfer Clarification

Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-902, which was referred to Committee on Economic Development. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-646 and transmitted to both Houses of Congress for its review. D.C. Law 16-287 became effective on March 14, 2007.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1219.01.

Delegation of Authority. — Delegation of Authority to the Deputy Mayor for Planning and Economic Development, see Mayor’s Order 2006-103, July 28, 2006 (53 DCR 6398).

Editor’s notes. — For additional requirements for the transfer of certain NCRC properties, see sections 201 through 209 of D.C. Law 16-287.

§ 2-1219.52. **Conditions of transfer; effective date.** [Repealed].

Repealed.

(Sept. 11, 1998, D.C. Law 12-144, § 30bb, as added Dec. 7, 2004, D.C. Law 15-219, § 201(a)(4), 51 DCR 9142; Mar. 14, 2007, D.C. Law 16-287, § 101(b), 54 DCR 969; Mar. 26, 2008, D.C. Law 17-138, § 103(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 201(a)(4) of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — For

D.C. Law 15-219, see notes following § 2-1219.51.

Legislative history of Law 16-287. — For Law 16-287, see notes following § 2-1219.51.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1219.01.

§ 2-1219.53. **Release of existing debt.** [Repealed].

Repealed.

(Sept. 11, 1998, D.C. Law 12-144, § 30cc, as added Mar. 14, 2007, D.C. Law

16-287, § 101(c), 54 DCR 969; Mar. 26, 2008, D.C. Law 17-138, § 103(a), 55 DCR 1689.)

Legislative history of Law 16-287. — For Law 16-287, see notes following § 2-1219.51.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1219.01.

Subchapter XI. Assistance for Qualified High Technology Companies.

§ 2-1221.01. Security deposit assistance.

(a)(1) The Mayor shall establish a program to provide funding assistance for the security deposit required for a lease of real property for operations of a Qualified High Technology Company, as defined in § 47-1817.01(5).

(2) No funding assistance shall be provided under this section if:

(A) Other financial assistance meeting the requirements of the applicant is available on reasonable terms; or

(B) If the Mayor determines that there exists a reasonable expectation that the Qualified High Technology Company will not perform the covenants and conditions of the lease.

(3) In exchange for funding assistance under this section, a Qualified High Technology Company shall provide:

(A) Training courses to District of Columbia Public School teachers and administrators for the more efficient use of technology in the education process;

(B) Internships to District of Columbia Public School students throughout the calendar year;

(C) Employment to District of Columbia Public School students during the summer months when school is not in session;

(D) Technical support or expertise, including networking and maintaining computer systems and other related activities; or

(E) Any other assistance considered appropriate or acceptable by the Mayor.

(4) The Mayor shall, at 6-month intervals following the commencement of the program, report to the Council on the terms and results of the program, including any agreement entered into under subsection (b) of this section, as of the date of each report.

(b) To implement the program described in subsection (a) of this section, the Mayor may enter into an agreement with a Qualified High Technology Company, commercial real estate broker, landlord, venture capitalist, business incubator, technology company, commercial bank, investment banker, or a for-profit, nonprofit, or public-sector entity, in connection with the provision of a security deposit for real property and equipment by, or on behalf of, a Qualified High Technology Company. The agreement shall state the total cost to the District of Columbia and the proportion which the cost to the District of Columbia bears to the total cost of the agreement. The Mayor shall make reasonable provision to ensure repayment to the District of Columbia of all amounts provided as assistance under this section. The Mayor may accept, in

exchange for the District of Columbia's participation in any such agreements, warrants, options, equity, preferred shares, or convertible debt of the applicable Qualified High Technology Company, or other consideration.

(Apr. 3, 2001, D.C. Law 13-256, § 301, 48 DCR 730.)

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of the Gallery Place Economic Development Emergency Amendment Act of 2000 (D.C. Act 13-500, January 5, 2001, 48 DCR 562).

Legislative history of Law 13-256. — Law 13-256, the "New E-Conomy Transformation Act of 2000", was introduced in Council and assigned Bill No. 13-752, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings

on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 5, 2001, it was assigned Act No. 13-543 and transmitted to Both Houses of Congress for its review. D.C. Law 13-256 became effective on April 3, 2001.

Delegation of Authority. — Delegation of Authority Pursuant to D.C. Law 13-256, the "New E-Conomy Transformation Act of 2000", see Mayor's Order 2001-170, November 16, 2001 (48 DCR 10798).

§ 2-1221.02. Master lease program.

(a) For purposes of this section, the term "sponsor" means a commercial real estate broker, landlord, venture capitalist, business incubator, technology company, commercial bank, investment banker, or a for-profit, nonprofit, or public-sector entity acting on behalf of a Qualified High Technology Company.

(b)(1) The Mayor may enter into one or more master leases of real property within the District of Columbia for the purpose of subleasing, directly or through a sponsor of a Qualified High Technology Company, the real property to a Qualified High Technology Company which is unable to secure financing for a facility on prevailing commercial terms.

(2) The Mayor may sublease the premises for a rent which, in his or her discretion, may be less than, but shall not exceed, the rental rate under the master lease. The term of a sublease shall be at least 12, but not greater than 36, months, including any option to extend the sublease.

(3) The master lease may be for all or part of a facility and shall provide that the District of Columbia shall have the unqualified right to sublease the space to a Qualified High Technology Company which is unable to secure financing for the facility, or a comparable facility, at commercially reasonable terms.

(4) The master lease shall provide that the District of Columbia is not liable in the event of a default by the lessor or other applicable party to the master lease under any financing or other agreement binding on the lessor or other party.

(c) In exchange for funding assistance under this section, a Qualified High Technology Company shall provide:

(1) Training courses to District of Columbia Public School teachers and administrators for the more efficient use of technology in the education process;

(2) Internships to District of Columbia Public School students throughout the calendar year;

(3) Employment to District of Columbia Public School students during the summer months when school is not in session;

(4) Technical support or expertise, including networking and maintaining computer systems and other related activities; or

(5) Any other assistance considered appropriate or acceptable by the Mayor.

(Apr. 3, 2001, D.C. Law 13-256, § 302, 48 DCR 730.)

Legislative history of Law 13-256. — For D.C. Law 13-256, see notes following § 2-1221.01.

Delegation of Authority. — Delegation of Authority Pursuant to D.C. Law 13-256, the “New E-Conomy Transformation Act of 2000”, see Mayor’s Order 2001-170, November 16, 2001 (48 DCR 10798).

§ 2-1221.03. Funds subject to appropriations.

The expenditure of funds necessary to implement the provisions of §§ 2-1221.01 and 2-1221.02 are subject to the availability of appropriations; provided, that any allocation of funds shall not be made in a manner that constitutes the lending of the public credit for private undertakings as contained in § 1-206.02.

(Apr. 3, 2001, D.C. Law 13-256, § 305, 48 DCR 730.)

Temporary Addition of Section. — For temporary (225 day) additions of sections, see §§ 2 through 16 of the Retail Incentive Temporary Act of 2003 (D.C. Law 15-58, on December 9, 2003, law notification 51 DCR 1793).

Legislative history of Law 13-256. — For D.C. Law 13-256, see notes following § 2-1221.01.

Subchapter XI-A. Technology Opportunity Development Task Force.

§ 2-1221.31. Establishment of Task Force.

There is established a Technology Opportunity Development Task Force (“Task Force”) to serve as a collaborative body to identify knowledge-based economic opportunities, including emerging technology fields, that could provide research and economic development opportunities for the District of Columbia and create a comprehensive and coordinated strategy to enhance commercial activity in these fields.

(Mar. 2, 2007, D.C. Law 16-190, § 2, 53 DCR 6791.)

Legislative history of Law 16-190. — Law 16-190, the “Emerging Technology Opportunity Development Task Force Act of 2006”, was introduced in Council and assigned Bill No. 16-504, which was referred to the Committee on Economic Development. The Bill was ad-

opted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-474 and transmitted to both Houses of Congress for its review. D.C. Law 16-190 became effective on March 2, 2007.

§ 2-1221.32. Duties.

(a) The Task Force shall conduct a detailed assessment of the emerging knowledge and technology cluster in the District of Columbia through the following:

(1) A review of national best practices to develop and attract knowledge-based and technology-based companies;

(2) Creation of a plan to promote the development of research-driven and innovative firms in the District; and

(3) Creation of a way to market and identify the District as a center for creativity and innovation, capitalizing on established institutions such as museums, think tanks, universities, and media and communication industries.

(b) The Task Force shall explore means to increase economic activity within the District through knowledge-based activities, including technology commercialization, by encouraging the following:

(1) Development of the technology infrastructure such as fiber optics cable and research and incubator space needed by knowledge-based and technology-based companies;

(2) The transfer and commercialization of university research;

(3) Partnerships between businesses and universities to market university products and attract government and private investment for these products;

(4) Creation of an entrepreneurial environment for new businesses to take advantage of emerging knowledge-based and technology development opportunities, especially in underserved communities and disadvantaged populations;

(5) Relocation of businesses to the District to take advantage of these initiatives;

(6) Investment by venture capital firms in emerging knowledge-based and technology-based companies in the District; and

(7) Collaboration by universities, public schools, and small businesses to:

(A) Define the jobs that may be created through innovation-led and technology development initiatives and the skills that will be needed for these jobs;

(B) Integrate opportunities for students and employees to work across disciplines to obtain the skills necessary for enhanced job performance; and

(C) Help individuals without technical skills to participate in on-the-job training, in conjunction with public schools and local universities.

(Mar. 2, 2007, D.C. Law 16-190, § 3, 53 DCR 6791.)

Legislative history of Law 16-190. — For Law 16-190, see notes following § 2-1221.31.

§ 2-1221.33. Composition; compensation, procedure; sunset.

(a) The Task Force shall be selected by the Mayor and the Chairman of the Council and be comprised of no more than 23 representatives from the following entities:

(1) University research and federal research communities;

(2) Business leaders including entrepreneurs;

(3) Real estate development;

(4) Banking, investment, and venture capital;

- (5) Government and public policy;
- (6) Public education;
- (7) Community organizations; and
- (8) Washington, D.C.-area grantmakers.

(b) The chairperson shall be appointed by the Mayor from among the members.

(c) The Mayor shall appoint at least 3 members from the Task Force to the Federal Comprehensive Economic Development Strategy (“CEDS”) Committee.

(d) Members shall serve without compensation; except, that members may receive reimbursement for documented expenses incurred in the service of the Task Force.

(e) The Mayor shall provide staff support to the Task Force and the funds necessary to accomplish its duties and the purposes of this subchapter.

(f) The Task Force may meet as necessary to conduct its official business.

(g) The Task Force may conduct hearings, receive testimony, and establish rules of procedure as may be necessary.

(h) The Task Force shall disband no later than one year after its initial meeting.

(Mar. 2, 2007, D.C. Law 16-190, § 4, 53 DCR 6791.)

Legislative history of Law 16-190. — For Law 16-190, see notes following § 2-1221.31.

§ 2-1221.34. Findings and recommendations.

No later than 30 days prior to disbandment, the Task Force shall submit to the Mayor and the Council its findings and recommendations, including any proposed legislative changes and the estimated cost of the proposed legislation.

(Mar. 2, 2007, D.C. Law 16-190, § 5, 53 DCR 6791.)

Legislative history of Law 16-190. — For Law 16-190, see notes following § 2-1221.31.

Subchapter XII. Anacostia Waterfront Corporation.

PART A.

DEFINITIONS.

§ 2-1223.01. Definitions. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 101, 51 DCR 9142; Mar. 17, 2005, D.C. Law 15-257, 3(a)(1), 52 DCR 1161; Mar. 2, 2007, D.C. Law 16-191, §§ 13, 14(a), 121(a), 53 DCR 6794; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Temporary Amendment of Section. — D.C. Law 17-53, §§ 103, 104, and 601 repealed provisions as follows:

“Sec. 103. (a) The National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 et seq.), is repealed.

“(b) This section shall apply as of October 1, 2007.

“Sec. 104. (a) The Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.01 et seq.), is repealed.

“(b) This section shall apply as of October 1, 2007.”

“TITLE VI. CONFORMING AMENDMENTS.

“Sec. 601. Subtitle P of Title II of the Fiscal Year 2008 Budget Support Act of 2007, signed by the Mayor on June 28, 2007 (D.C. Act 17-63), is repealed.”

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 101 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

For temporary (90 day) amendment of section, see § 2(a) of Anacostia Waterfront Corporation Clarification Emergency Act of 2005 (D.C. Act 16-64, April 20, 2005, 52 DCR 4135).

Legislative history of Law 15-219. — Law 15-219, the “Anacostia Waterfront Corporation Act of 2004”, was introduced in Council and

assigned Bill No. 15-616, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 5, 2004, it was assigned Act No. 15-527 and transmitted to both Houses of Congress for its review. D.C. Law 15-219 became effective on December 7, 2004.

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.71.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Effective date. — Section 3(b) of D.C. Law 15-257 provided: “(b) This section shall not apply until the effective date of the Anacostia Waterfront Corporation Act of 2004, signed by the Mayor on August 5, 2004 (D.C. Act 15-527; 51 DCR 9142) [December 7, 2004].”

Editor’s notes. — Section 104(b) of Law 17-138 provided that this section shall apply as of October 1, 2007.

PART B.

ESTABLISHMENT OF ANACOSTIA WATERFRONT CORPORATION; PURPOSES; GENERAL POWERS.

§§ 2-1223.02 to 2-1223.04. Establishment of the Corporation; purposes; Waterfront Framework Plan; consistency with other plans; general powers of the corporation.

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 102, 51 DCR 9142; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 102 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART C.

BOARD OF DIRECTORS; OFFICERS AND EMPLOYEES. [REPEALED].

§§ 2-1223.05 to 2-1223.10. Board of Directors — establishment; powers; membership; terms; delegation; compensation; Board of Directors — officers; bylaws and procedures; Board of Directors — quorum; meetings; officers and employees; personnel system; compensation; benefits; chief executive officer; additional officers; officers and employees — other government employees; outside services. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 105, 51 DCR 9142; Mar. 17, 2005, D.C. Law 15-257, § 3(a)(3), 52 DCR 1161; Sept. 14, 2005, D.C. Law 16-19, § 2(a), 52 DCR 6572; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the Anacostia Waterfront Corporation Board Expansion Temporary Amendment Act of 2004 (D.C. Law 15-343, Apr. 12, 2005, law notification 52 DCR 5408).

Emergency legislation. — For temporary (90 day) addition, see § 105 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

For temporary (90 day) amendment of section, see §§ 2(a), 3(a) of Anacostia Waterfront Corporation Board Expansion Emergency Amendment Act of 2004 (D.C. Act 15-723, January 19, 2005, 52 DCR 1943).

For temporary (90 day) amendment of section, see § 2(c) of Anacostia Waterfront Corporation Clarification Emergency Act of 2005 (D.C. Act 16-64, April 20, 2005, 52 DCR 4135).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.71.

Legislative history of Law 16-19. — Law 16-19, the “Anacostia Waterfront Corporation Board Expansion Amendment Act of 2005”, was introduced in Council and assigned Bill No. 16-25, which was referred to the Committee of Economic Development. The Bill was adopted on first and second readings on May 3, 2005, and June 7, 2005, respectively. Signed by the Mayor on June 22, 2005, it was assigned Act No. 16-101 and transmitted to both Houses of Congress for its review. D.C. Law 16-19 became effective on September 14, 2005.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART D.

OTHER POWERS AND AUTHORITIES OF THE CORPORATION.
[REPEALED].

§§ 2-1223.11 to 2-1223.13. Assistance for eligible projects; eminent domain; subsidiaries. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 111, 51 DCR 9142; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 111 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART E.

FINANCIAL AFFAIRS; BONDING AUTHORITY.

§§ 2-1223.14 to 2-1223.20. Establishment of Enterprise Fund; revolving funds; reserve funds; revenue bonds, notes, or other obligations; loans and grants; district pledges; tax-exempt status; no taxing power; fiscal year. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 114, 51 DCR 9142; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 114 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART F.

RELATION TO OTHER GOVERNMENT ENTITIES.

§§ 2-1223.21, 2-1223.22. Corporation's review of plans and projects of District agencies; expedited consideration by other agencies. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 121, 51 DCR 9142; Mar. 17, 2005, D.C. Law 15-257, § 3(a)(4), 52 DCR 1161; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 121 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

For temporary (90 day) amendment of section, see § 2(d) of Anacostia Waterfront Corpo-

ration Clarification Emergency Act of 2005 (D.C. Act 16-64, April 20, 2005, 52 DCR 4135).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 15-257. — For Law 15-257, see notes following § 2-1215.71.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART G.

RELATION TO OTHER LAWS AND POLICIES.

§§ 2-1223.23 to 2-1223.25. Relation to other laws; utilization of local, small, and disadvantaged business enterprises; hiring of District residents; property dispositions. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 123, 51 DCR 9142; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Temporary Amendment of Section. — Section 3 of D.C. Law 17-16 added subsec. (a)(2A) to read as follows:

“(2A) The Corporation and its subsidiaries shall be subject to, and comply with, the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.), and the District of Columbia Public Records Management Act of 1985, effective September 5, 1985 (D.C. Law 6-19; D.C. Official Code § 2-1701 et seq.).”

Section 6(b) of D.C. Law 17-16 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary

(90 day) addition, see § 123 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

For temporary (90 day) amendment of section, see § 3 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Freedom of Information Emergency Amendment Act of 2007 (D.C. Act 17-29, April 19, 2007, 54 DCR 4077).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

PART H.

MISCELLANEOUS PROVISIONS.

§§ 2-1223.26 to 2-1223.33. Rules with respect to gifts, procurement of goods and services, and property dispositions; affordable housing; prohibition on political activity; conflict of interest; disclosure; waiver of bar against participation by interested party; annual report; limitations of actions; dissolution; termination of affairs; interpretation. [Repealed].

Repealed.

(Dec. 7, 2004, D.C. Law 15-219, § 126, 51 DCR 9142; Mar. 26, 2008, D.C. Law 17-138, § 104(a), 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition, see § 126 of Anacostia Waterfront Corporation Emergency Act of 2004 (D.C. Act 15-586, November 1, 2004, 51 DCR 10681).

Legislative history of Law 15-219. — For D.C. Law 15-219, see notes following § 2-1223.01.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1223.01.

Resolutions. — Resolution 16-212, the “Anacostia Waterfront Corporation Operating Documents Approval Resolution of 2005”, was approved effective June 21, 2005.

Subchapter XIII. District Assumption of Authority of NCRC and AWC.

PART A.

REORGANIZATION OF NCRC AND AWC.

§ 2-1225.01. Dissolution of the boards of directors.

(a) The Board of Directors of the National Capital Revitalization Corporation (“NCRC”) and the Board of Directors of the RLA Revitalization Corporation (“RLARC”), established by §§ 2-1219.01 [repealed] and 2-1219.31 [repealed], respectively, are dissolved. The Mayor shall succeed to the powers, duties, and responsibilities of the boards of directors of the NCRC and the RLARC.

(b) The Board of Directors of the Anacostia Waterfront Corporation (“AWC”), established by § 2-1223.05 [repealed], and the boards of directors of its subsidiaries, the Southwest Waterfront Development Corporation (“SWDC”) and the Southwest Waterfront Holdings Corporation (“SWHC”), are dissolved. The Mayor shall succeed to the powers, duties, and responsibilities of the board of directors of the AWC and its subsidiaries.

(Mar. 26, 2008, D.C. Law 17-138, § 101, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 101, added a section to read as follows:

“Sec. 101. Dissolution of the boards of directors.

“(a) The Board of Directors of the National Capital Revitalization Corporation (“NCRC”) and the Board of Directors of the RLA Revitalization Corporation (“RLARC”), established by sections 4 and 30a, respectively, of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code §§ 2-1219.03 and 2-1219.31), are dissolved. The Mayor shall succeed to the powers, duties, and responsibilities of the boards of directors of the NCRC and the and the RLARC.

“(b) The Board of Directors of the Anacostia Waterfront Corporation (“AWC”), established by section 105 of the Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004

(D.C. Law 15-219; D.C. Official Code § 2-1223.05), and the boards of directors of its subsidiaries (the Southwest Waterfront Development Corporation (“SWDC”) and the Southwest Waterfront Holdings Corporation (“SWHC”)) are dissolved. The Mayor shall succeed to the powers, duties, and responsibilities of the boards of directors of the AWC and its subsidiaries.”

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 101 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 101 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorga-

nization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Delegation of Authority. — Delegation of Authority—National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Act of 2007,

see Mayor’s Order 2008-137, October 20, 2008 (55 DCR 12507).

Mayor’s Orders. — Registration of the Capitol Riverfront Business Improvement District Pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 et seq. (2006 Supp.)), see Mayor’s Order 2007-183, August 8, 2007 (54 DCR 11619).

Editor’s notes. — Section 801 of D.C. Law 17-138 provided: “This act shall sunset on September 30, 2008, if the fiscal effect of this act has not been included in an approved budget and financial plan.”

According to the Budget Director to the Council of the District of Columbia, D.C. Law 17-138 was funded under D.C. Act 17-409.

Section 305(a) of D.C. Law 17-353 repealed section 801 of D.C. Law 17-138. Section 305(b) of D.C. Law 17-353 provided that the section shall apply as of September 29, 2009.

§ 2-1225.02. Transition to District control.

(a)(1) The Mayor may transfer any contract of the AWC, NCRC, or any of their subsidiaries, which include the RLARC, the SWDC, the SWHC, and the Economic Development Finance Corporation (“EDFC”), established by § 2-1207.03 (repealed by section 7 of D.C. Law 14-213, effective October 19, 2002), to the District’s contracting and procurement system. Any lawful contracts of the AWC and the NCRC not transferred by the Mayor under this subsection before October 1, 2007, shall be transferred to the District’s contracting and procurement system on October 1, 2007, pursuant to §§ 2-1225.11 and 2-1225.12.

(2) Notwithstanding paragraph (1) of this subsection, any rights and obligations existing under contracts to which either the AWC or the NCRC are parties shall not transfer to the District before October 1, 2007.

(b)(1) The Mayor may hire as an employee of the District government a person who was an employee of the AWC or the NCRC, or any of their subsidiaries, on July 20, 2007.

(2) Any employee of the NCRC or the AWC, or any of their subsidiaries, who was an employee on July 20, 2007, and who is not hired by the Mayor pursuant to paragraph (1) of this subsection, shall be entitled to 4 weeks severance pay, and one month’s COBRA premium for continued health care under the Consolidated Omnibus Budget Reconciliation Act of 1985, approved April 7, 1986 (Pub. L. No. 99-272; 100 Stat. 82).

(c) Any leave that an employee who is hired pursuant to this section accrued during his or her tenure with the AWC, the NCRC, or any of their subsidiaries, shall be credited to the employee once the employee is hired by the District. The accrued leave of the employee shall be allocated between sick leave and annual leave in such proportions as the Mayor considers appropriate.

(d) Each employee’s length of service at the AWC or the NCRC, or any of their subsidiaries, and the employee’s service with the District government, if such service was immediately prior to the employee’s service with the AWC or

the NCRC, shall be counted as creditable District government service for vesting in the District's retirement program and for the rate at which the employee accrues annual leave.

(e) If an employee is hired by the District government under this section and was employed by the District government immediately prior to his or her employment with the AWC or the NCRC and funds were deposited into the employee's District of Columbia retirement account during the employee's term of employment with the District government and the deposited funds lapsed from the retirement account because of a break in employment with the District government caused by the employee's service with the AWC or the NCRC, the deposited funds that lapsed shall be restored to the employee's retirement account by the District.

(f)(1) The Mayor may increase the full-time equivalent authority of the executive branch by 40 to effectuate the objectives of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689).

(2) Subject to Council approval by act, the Mayor may increase the full-time equivalent authority provided by this subsection.

(g)(1) The Mayor may transfer any unexpended balances of appropriations, allocations, income, or other funds available, including the Fiscal Year 2007 budget authority of the AWC and the NCRC, from the accounts and systems of the AWC and the NCRC to the District.

(2) All unexpended balances of appropriations, allocations, income, and other funds available, and the Fiscal Year 2007 budget authority of the AWC and the NCRC shall transfer to the District on October 1, 2007.

(3) Operating funds transferred pursuant to this subsection shall be deposited into General Fund of the District of Columbia.

(4) Capital funds transferred pursuant to this subsection shall be deposited into the capital accounts established by § 2-1225.22.

(h) The Mayor may transfer any property, records, rights, obligations, causes of action, legal or equitable title to any real property, or legal obligations of the NCRC and the AWC and any of their subsidiaries or predecessors in interest; provided, that all such property, records, rights, obligations, causes of action, legal and equitable title to any real property, or legal obligations under this subsection shall be transferred to the District on October 1, 2007, pursuant to §§ 2-1225.11 and 2-1225.12.

(i) The Mayor shall prepare and submit to the Council by July 12, 2007, a transition plan for the transfer of the functions, duties, powers, records, real and personal property, liabilities, and other rights, authorities, obligations, and assets from the NCRC and the AWC to the management and control of the Mayor.

(Mar. 26, 2008, D.C. Law 17-138, § 102, 55 DCR 1689; Sept. 14, 2011, D.C. Law 19-21, § 9027(a), 58 DCR 6226.)

Effect of amendments. — D.C. Law 19-21, in subsec. (g)(3), substituted "General Fund of the District of Columbia" for "Economic Development

Special Account established by § 2-1225.21".

Temporary Amendment of Section. —

Section 2(a) of D.C. Law 19-89, in subsec. (g)(3), substituted "Economic Development Special Account established by section 301" for "General Fund of the District of Columbia".

Section 5(b) of D.C. Law 19-89 provided that the act shall expire after 225 days of its having taken effect.

Temporary Addition of Section. — D.C. Law 17-53, § 102, added a section to read as follows:

"Sec. 102. Transition to District control.

"(a)(1) The Mayor may transfer any contract of the AWC, NCRC, or any of the subsidiaries, which include the RLARC, the SWDC, the SWHC, and the Economic Development Finance Corporation ('EDFC'), to the District's contracting and procurement system. Any lawful contracts of the AWC and the NCRC not transferred by the Mayor under this subsection before October 1, 2007, shall be transferred to the District's contracting and procurement system on October 1, 2007, pursuant to sections 201 and 202.

"(2) Notwithstanding paragraph (1) of this subsection, any rights and obligations existing under contracts to which either the AWC or the NCRC are parties shall not transfer to the District before October 1, 2007.

"(b)(1) The Mayor may hire as an employee of the District government a person who was an employee of the AWC or the NCRC, or any of their subsidiaries, on the effective date of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, effective July 20, 2007 (D.C. Act 17-71; 54 DCR 7390).

"(2) Any employee of the NCRC or the AWC, or any of their subsidiaries, who is an employee on July 20, 2007, and who is not hired by the Mayor pursuant to paragraph (1) of this subsection, shall be entitled to 4 weeks severance pay, and one month's COBRA premium for continued health care under the Consolidated Omnibus Budget Reconciliation Act of 1985, approved April 7, 1986 (Pub. L. No. 99-272; 100 Stat. 82).

"(c) Any leave that an employee who is hired pursuant to this section accrued during his or her tenure with the AWC, the NCRC, or any of their subsidiaries, shall be credited to the employee once the employee is hired by the District. The accrued leave of the employee shall be allocated between sick leave and annual leave in such proportions as the Mayor considers appropriate.

"(d) Each employee's length of service at the AWC or the NCRC, or any of their subsidiaries, and the employee's service with the District government, if such service was immediately prior to the employee's service with the AWC or the NCRC, shall be counted as creditable District government service for vesting in the Dis-

trict's retirement program and for the rate at which the employee accrues annual leave.

"(e) If an employee is hired by the District government under this section and was employed by the District government immediately prior to his or her employment with the AWC or the NCRC and funds were deposited into the employee's District of Columbia retirement account during the employee's term of employment with the District government and the deposited funds lapsed from the retirement account because of a break in employment with the District government caused by the employee's service with the AWC and the NCRC, the deposited funds that lapsed shall be restored to the employee's retirement account by the District.

"(f)(1) The Mayor may increase the full-time equivalent authority of the executive branch by 40 to effectuate the objectives of this act.

"(2) Subject to Council approval by act, the Mayor may increase the full-time equivalent authority provided by this subsection.

"(g)(1) The Mayor may transfer any unexpended balances of appropriations, allocations, income, or other funds available, including the Fiscal Year 2007 budget authority of the AWC and the NCRC, from the accounts and systems of the AWC and the NCRC to the District.

"(2) All unexpended balances of appropriations, allocations, income, and other funds available, and the Fiscal Year 2007 budget authority of the AWC and the NCRC shall transfer to the District on October 1, 2007.

"(3) Operating funds transferred pursuant to this subsection shall be deposited into the Economic Development Special Account Fund established by section 301.

"(4) Capital funds transferred pursuant to this subsection shall be deposited into the capital accounts established by section 301.

"(h) The Mayor may transfer any property, records, rights, obligations, causes of action, legal or equitable title to any real property, or legal obligations of the NCRC and the AWC and any of their subsidiaries or predecessors in interest; provided, that all such property, records, rights, obligations, causes of action, legal and equitable title to any real property or legal obligations under this subsection shall be transferred to the District on October 1, 2007, pursuant to sections 201 and 202.

"(i) The Mayor shall prepare and submit to the Council by July 12, 2007, a transition plan for the transfer of the functions, duties, powers, records, real and personal property, liabilities, and other rights, authorities, obligations, and assets from the NCRC and the AWC to the management and control of the Mayor."

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 102 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 102 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

For temporary (90 day) amendment of section, see § 2(a) of Economic Development Special Account Revival Emergency Amendment Act of 2011 (D.C. Act 19-232, November 19, 2011, 58 DCR 10088).

For temporary (90 day) amendment of section, see § 2(a) of Economic Development Special Account Revival Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-305, February 21, 2012, 59 DCR 1677).

For temporary (90 day) amendment of section, see § 2022(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2022(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act

of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1225.02.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 2-351.15.

Delegation of Authority. — Delegation of authority to National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, see Mayor's Order 2007-172, July 25, 2007 (54 DCR 11600).

Delegation of Personnel Authority and Hiring of Employees Pursuant to the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, effective July 20, 2007 (D.C. Act 17-71), see Mayor's Order 2007-182, August 8, 2007 (54 DCR 11616).

Delegation of Personnel Authority and Hiring of Employees Pursuant to the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007, D.C. Act 17-71, effective July 20, 2007, see Mayor's Order 2007-195, August 24, 2007 (54 DCR 11633).

§ 2-1225.03. [Reserved].

Reserved.

§ 2-1225.04. [Reserved].

Reserved.

PART B.

TRANSFER OF ASSETS AND LIABILITIES.

§ 2-1225.11. Transfer of NCRC assets and liabilities.

(a) On October 1, 2007:

(1) Legal and equitable title to all real property, personal property, capital, and intangible assets of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer, vest, and be titled, in the name of the District, and the Mayor may exercise any disposition authority related to the property that was previously approved by the Council.

(2) All property, records, and unexpended balances of appropriations, allocations, income, and other funds available to the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District.

(3) The unexpended balances of appropriations, allocations, income, and other funds available to the NCRC, the RLARC, the EDFC, and any of their

subsidiaries, shall transfer to the Economic Development Special Account pursuant to § 2-1225.21 [repealed] or to the capital accounts pursuant to § 2-1225.22.

(4) All lawful existing contractual rights and obligations, except employment contracts, of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

(5) All other existing rights and obligations, including all lawful contractual rights and obligations, and all causes of actions of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District.

(b) Any existing contracts transferred to the District under this section or § 2-1225.02(a) shall not be subject to Unit A of Chapter 3 of this title [§ 2-301.01 et seq.].

(c) All real property and other assets transferred pursuant to this section or § 2-1225.02 that are subject to a Community Development Block Grant ("CDBG") subrecipient agreement with the Department of Housing and Community Development shall continue to be subject to the applicable subrecipient agreement and CDBG regulations.

(d) No existing lawful contract or other lawful legal obligation of the NCRC, the RLARC, the EDFC, and their subsidiaries transferred pursuant to subsection (a) of this section or pursuant to § 2-1225.02 shall be abrogated or impaired by the repeal of subchapter X of this chapter [§ 2-1219.01 et seq.].

(e) Nothing in this section or § 2-1225.02 shall impair the obligations, commitments, pledges, covenants, or the security made or provided by the NCRC, the RLARC, the EDFC, or any of their subsidiaries, the Chief Financial Officer, or the Department of Housing and Community Development.

(Mar. 26, 2008, D.C. Law 17-138, § 201, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 201, added a section to read as follows:

"Sec. 201. Transfer of NCRC assets and liabilities.

"(a) On October 1, 2007:

"(1) Legal and equitable title to all real property, personal property, capital and intangible assets of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer, vest, and be titled, in the name of the District, and the Mayor may exercise any disposition authority related to such property that was previously approved by the Council.

"(2) All property, records, and unexpended balances of appropriations, allocations, income and other funds available to the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District.

"(3) The unexpended balances of appropriations, allocations, income, and other funds available to the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the Economic Development Special Account

Fund pursuant to section 301 or to the capital accounts pursuant to section 302.

"(4) All lawful existing contractual rights and obligations, except employment contracts, of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

"(5) All other existing rights and obligations, including all lawful contractual rights and obligations, and all causes of actions of the NCRC, the RLARC, the EDFC, and any of their subsidiaries, shall transfer to the District.

"(b) Any existing contracts transferred to the District under this section or section 102(a) shall not be subject to the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.).

"(c) All real property and other assets transferred pursuant to this section or section 102 that are subject to a Community Development Block Grant ('CDBG') subrecipient agreement with the Department of Housing and Commu-

nity Development shall continue to be subject to the applicable subrecipient agreement and CDBG regulations.

“(d) No existing lawful contract or other lawful legal obligation of the NCRC, the RLARC, the EDFC, and their subsidiaries transferred pursuant to subsection (a) of this section or pursuant to section 102 shall be abrogated or impaired by the repeal of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 et seq.).

“(e) Nothing in this section or section 102 shall impair the obligations, commitments, pledges, covenants, or the security made or provided by the NCRC, the RLARC, the EDFC, or any or their subsidiaries, the Chief Financial Officer, or the Department of Housing and Community Development.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 201 of National Capital

Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 201 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

§ 2-1225.12. Transfer of AWC assets and liabilities.

(a) On October 1, 2007:

(1) Legal and equitable title to all real property, personal property, capital, and intangible assets of the AWC, the SWDC, the SWHC, and any of their subsidiaries, shall transfer, vest, and be titled in the name of the District and the Mayor may exercise any disposition authority related to the property that was previously approved by the Council.

(2) All property, records, and unexpended balances of appropriations, allocations, income, and other funds available to the AWC, the SWDC, and the SWHC, and any of their subsidiaries shall transfer to the District.

(3) The unexpended balances of appropriations, allocations, income and other funds available to the AWC, the SWDC, the SWHC, and any of their subsidiaries shall transfer to the Economic Development Special Account pursuant to § 2-1225.21 [repealed] or to the capital accounts pursuant to § 2-1225.22.

(4) All lawful existing contractual rights and obligations of the AWC, the SWDC, the SWHC, and any of their subsidiaries, except employment contracts, shall transfer to the District, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

(5) All other existing rights and obligations, including all lawful contractual rights and obligations, and all causes of actions of the AWC, the SWDC, and the SWHC, any or their subsidiaries, shall transfer to the District.

(b) Existing contracts transferred to the District under this section or § 2-1225.02(a), or contracts entered into under a solicitation continued under § 2-1225.13, shall not be subject to Unit A of Chapter 3 of this title [§ 2-301.01 et seq.].

(c) All real property and other assets transferred pursuant to this section or § 2-1225.02 that are subject to a CDBG subrecipient agreement with the

Department of Housing and Community Development shall continue to be subject to the applicable subrecipient agreement until the agreement is amended or terminated or expires and shall be subject to applicable CDBG regulations.

(d) No existing lawful contract or other lawful legal obligation of the AWC, the SWDC, the SWHC, and any of their subsidiaries, transferred pursuant to subsection (a) of this section, shall be abrogated or impaired by the repeal of subchapter XII of this chapter [§ 2-1223.01 et seq.].

(e) Nothing in this section or § 2-1225.02 shall impair the obligations, commitments, pledges, or covenants, or the security made or provided by the AWC, the SWDC, the SWHC, any of their subsidiaries, the Chief Financial Officer, or the Department of Housing and Community Development.

(Mar. 26, 2008, D.C. Law 17-138, § 202, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 202, added a section to read as follows:

“Sec. 202. Transfer of AWC assets and liabilities.

“(a) On October 1, 2007:

“(1) Legal and equitable title to all real property, personal property, capital and intangible assets of the AWC, the SWDC, the SWHC, and any of their subsidiaries, shall transfer, vest, and be titled in the name of the District and the Mayor may exercise any disposition authority related to such property that was previously approved by the Council.

“(2) All property, records, and unexpended balances of appropriations, allocations, income, and other funds available to the AWC, the SWDC, the SWHC, and any of their subsidiaries shall transfer to the District.

“(3) The unexpended balances of appropriations, allocations, income, and other funds available to the AWC, the SWDC, the SWHC, and any of their subsidiaries shall transfer to the Economic Development Special Account Fund pursuant to section 301 or to the capital accounts pursuant to section 302.

“(4) All lawful existing contractual rights and obligations of the AWC, the SWDC, the SWHC, and any of their subsidiaries, except employment contracts, shall transfer to the District, which shall assume all rights, duties, liabilities, and obligations as a successor in interest.

“(5) All other existing rights and obligations, including all lawful contractual rights and obligations, and all causes of actions of the AWC, the SWDC, and the SWHC, and any of their subsidiaries, shall transfer to the District.

“(b) Existing contracts transferred to the District under this section or section 102(a) shall not be subject to the District of Columbia Procurement Practices Act of 1985, effective Feb-

ruary 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.).

“(c) All real property and other assets transferred pursuant to this section or section 102 that are subject to a CDBG subrecipient agreement with the Department of Housing and Community Development shall continue to be subject to the applicable subrecipient agreement and CDBG regulations.

“(d) No existing lawful contract or other lawful legal obligation of the AWC, the SWDC, the SWHC, and any of their subsidiaries, transferred pursuant to subsection (a) of this section, shall be abrogated or impaired by the repeal of the Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.01 et seq.).

“(e) Nothing in this section or section 102 shall impair the obligations, commitments, pledges, or covenants, or the security made or provided by the AWC, the SWDC, the SWHC, any of their subsidiaries, the Chief Financial Officer, or the Department of Housing and Community Development.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 202 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 202 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1225.11.

§ 2-1225.13. Continuation of ongoing procurement process.

The Mayor may enter into a contract based upon a solicitation, including a request for proposals, request for qualifications, or request for expressions of interest, issued by the NCRC or the AWC before October 1, 2007.

(Mar. 26, 2008, D.C. Law 17-138, § 203, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1225.11.

PART C.

ECONOMIC DEVELOPMENT SPECIAL ACCOUNT.

§ 2-1225.21. Economic Development Special Account. [Repealed].

Repealed.

(Mar. 26, 2008, D.C. Law 17-138, § 301, 55 DCR 1689; Oct. 22, 2008, D.C. Law 17-253, § 2, 55 DCR 9270; Mar. 3, 2010, D.C. Law 18-111, § 2051, 57 DCR 181; Oct. 26, 2010, D.C. Law 18-257, § 5, 57 DCR 8144; Sept. 14, 2011, D.C. Law 19-21, § 9027(b), 58 DCR 6226.)

Effect of amendments. — D.C. Law 17-253 added subsecs. (b)(1)(C-i) and (d-1); and, in subsec. (c), inserted “; except, the monies deposited into the Account pursuant to subsection (b)(1)(C-i) of this section shall be allocated as set forth in subsection (d-1) of this section”.

D.C. Law 18-111, in subsec. (e)(2), deleted “included as a segregated line item in the budget of the Department of Housing and Community Development that the Mayor is required to submit to the Council pursuant to § 1-204.42, and shall be” following “sub-account shall be”; and added subsecs. (e)(3) and (4).

D.C. Law 18-257 rewrote subsecs. (b)(1)(C-i) and (d-1); and, in subsec. (c), substituted “is made” for “is made; except, the monies deposited into the Account pursuant to subsection (b)(1)(C-i) of this section shall be allocated as set forth in subsection (d-1) of this section”.

Temporary Amendment of Section. — Section 2(b) of D.C. Law 19-89 revived and amended this section to read as follows:

“Sec. 301. Economic Development Special Account.

“(a) There is established as a nonlapsing account within the General Fund of the District of Columbia the Economic Development Special Account (‘Account’), which shall be used solely for the purposes set forth in this section.

“(b)(1) Deposits into the Account shall include:

“(A) All operating funds transferred from the Anacostia Waterfront Corporation Enterprise Fund, established by section 114 of the Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.14);

“(B) All operating funds transferred from the National Capital Revitalization Corporation Enterprise Fund, established by section 9 of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.08);

“(C) All fees, revenues, and other income from real property or other assets formerly under the authority of the NCRC or the AWC, or any of their subsidiaries, which include RLARC, SWDC, SWHC, and EDFC;

“(D) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Account;

“(E) Any other monies designated by law or regulation to be deposited into the Account; and

“(F) Interest on money deposited in the Account.

“(2) Funds deposited into the Account pursuant to this subsection shall be maintained in segregated sub-accounts associated with each revenue source as the Chief Financial Officer determines to be necessary.

“(3) The funds deposited into the Account shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsections (c) and (d) of this section, subject to authorization by Congress.

“(c) Monies credited to the Account shall be allocated annually to the Office of the Deputy Mayor for Planning and Economic Development in an aggregate amount that is equal to the total deposits and earnings that are estimated to remain unspent in the Account at the end of the preceding fiscal year plus all deposits and earnings that are estimated to be received during the fiscal year for which the allocation is made.

“(d) Monies may be used to pay the costs of operating and administering properties and programs under the authority of the Deputy Mayor for Planning and Economic Development, including properties and programs formerly operated and administered by the NCRC and the AWC, to provide economic development assistance, including the provision of grants, loans, and credit support or enhancement, and to implement other programs, projects, and initiatives that:

“(1) Are consistent with and in furtherance of the economic development goals or activities of the District;

“(2) Further meeting the requirements of providing jobs for District residents creating affordable housing, and restoring the District's waterways pursuant to Title IV;

“(3) Support the development of a workforce intermediary pursuant to section 403; or

“(4) Facilitate the implementation of the environmental standards pursuant to subtitle B of Title IV.

“(e)(1) Fees, revenue, and other income that otherwise would be deposited into the Account under this section, but that are subject to Community Development Block Grant regulations shall be deposited into a segregated sub-account designated for Community Development Block Grant funds and shall be subject to applicable reporting to the United States Department of Housing and Urban Development.

“(2) The funds in the segregated sub-account shall be included as a segregated line item in the budget of the Department of Housing and Community Development that the Mayor is required to submit to the Council pursuant to section 442 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code § 1-204.42), and shall be designated for the use of the Deputy Mayor for Planning and Economic Development consistent with the requirements of the Community Development Block Grant Program.”

Section 3 of Law 19-89 repealed D.C. Law 19-21, § 9027(b) that repealed this section.,

Section 5(b) of D.C. Law 19-89 provided that the act shall expire after 225 days of its having taken effect.

Temporary Addition of Section. — D.C. Law 17-53, § 301, added a section to read as follows:

“Sec. 301. Economic Development Special Account Fund.

“(a) There is established as a nonlapsing fund within the General Fund of the District of Columbia the Economic Development Special Account Fund (‘Fund’), which shall be used solely for the purposes set forth in this section.

“(b)(1) Deposits into the Fund shall include:

“(A) All operating funds transferred from the Anacostia Waterfront Corporation Enterprise Fund, established by section 114 of the Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.14);

“(B) All operating funds transferred from the National Capital Revitalization Corporation Enterprise Fund, established by section 9 of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.08);

“(C) All fees, revenues, and other income from real property or other assets formerly under the authority of the NCRC or the AWC;

“(D) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Fund;

“(E) Any other monies designated by law or regulation to be deposited into the Fund; and

“(F) Interest on money deposited in the Fund.

“(2) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of any fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsections (c) and (d) of this section, subject to authorization of Congress.

“(c) Monies credited to the Fund shall be allocated annually to the Office of the Deputy Mayor for Planning and Economic Development in an aggregate amount that is equal to the total deposits and earnings that are estimated to remain unspent in the Fund at the end of the preceding fiscal year plus all deposits and earnings that are estimated to be received during the fiscal year for which the allocation is made.

“(d) Monies may be used to pay the costs of operating and administering properties and programs under the authority of the Deputy Mayor for Planning and Economic Development, including properties and programs formerly operated and administered by the NCRC and the AWC, to provide economic development assistance, including the provision of grants,

loans, and credit support or enhancement, and to implement other programs, projects, and initiatives that are consistent with and in furtherance of the economic development goals or activities of the District.

“(e)(1) Fees, revenue, and other income that otherwise would be deposited into the Fund under this section, but that are subject to Community Development Block Grant regulations and applicable subrecipient agreements with the Department of Housing and Community Development shall be deposited into a segregated account within the Community Development Block Grant account administered by the Department of Housing and Community Development and subject to reporting to the United States Department of Housing and Urban Development.

“(2) The funds in the segregated account shall be included as a segregated line item in the budget of the Department of Housing and Community Development that the Mayor is required to submit to the Council pursuant to section 442 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code § 1-204.42), and shall be designated for the use of the Deputy Mayor for Planning and Economic Development consistent with the requirements of the Community Development Block Grant Program.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 301 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 301 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

For temporary (90 day) amendment of section, see § 2051 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2051 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) revival and amendment of section, see § 2(b) of Economic Development Special Account Revival Emergency Amendment Act of 2011 (D.C. Act 19-232, November 19, 2011, 58 DCR 10088).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 3 of Economic Development Special Account Revival Emer-

gency Amendment Act of 2011 (D.C. Act 19-232, November 19, 2011, 58 DCR 10088).

For temporary (90 day) revival and amendment of section, see § 2(b) of Economic Development Special Account Revival Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-305, February 21, 2012, 59 DCR 1677).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 3 of Economic Development Special Account Revival Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-305, February 21, 2012, 59 DCR 1677).

For temporary (90 day) revival and amendment of section, see § 2022(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 2023 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) revival and amendment of section, see § 2022(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 2023 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Legislative history of Law 17-253. — Law 17-253, the “Center Leg Freeway (Interstate 395) Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-717 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-500 and transmitted to both Houses of Congress for its review. D.C. Law 17-253 became effective on October 22, 2008.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 18-257. — Law 18-257, the “Redevelopment of the Center Leg

Freeway (Interstate 395) Act of 2010", was introduced in Council and assigned Bill No. 18-806 which was referred to the Committee on Economic Development, Finance and Revenue. The Bill was adopted on first and second readings on June 29, 2010, and July 13, 2010, respectively. Signed by the Mayor on August 6, 2010, it was assigned Act No. 18-533 and transmitted to both Houses of Congress for its review. D.C. Law 18-257 became effective on October 26, 2010.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 2-351.15.

Short title. — Short title: Section 2050 of D.C. Law 18-111 provided that subtitle F of title II of the act may be cited as the "Community Development Block Grant Accounting Correction Amendment Act of 2009".

§ 2-1225.22. Capital accounts.

(a) Any capital funds of the AWC and the NCRC transferred to the District government shall be transferred to segregated accounts in the General Capital Improvements Fund, which shall be designated specifically for capital projects of the former AWC and NCRC.

(b) The segregated accounts shall be under the expenditure authority of the Deputy Mayor for Planning and Economic Development.

(Mar. 26, 2008, D.C. Law 17-138, § 302, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 302, added a section to read as follows:

"Sec. 302. Capital accounts.

"(a) Any capital funds of the AWC and the NCRC transferred to the District government shall be transferred to segregated accounts in the General Capital Improvements Fund, which shall be designated specifically for capital projects of the former AWC and NCRC.

"(b) The segregated accounts shall be under the expenditure authority of the Deputy Mayor for Planning and Economic Development."

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 302 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 302 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1225.21.

PART D.

ADMINISTERED BY THE FORMER RLA AND NCRC.

§ 2-1225.31. Urban renewal plans.

(a) The Mayor may, with the consent of the Council, modify the urban renewal plans for the following urban renewal areas:

(1) The Downtown Urban Renewal Area (adopted by the National Capital Planning Commission, established by § 2-1002 ("NCPC"), on January 9, 1969, and approved by the Council on January 28, 1969);

(2) The Shaw School Urban Renewal Area (adopted by the NCPC on January 9, 1969, and approved by the Council on January 28, 1969); and

(3) The Fort Lincoln Urban Renewal Area (adopted by the NCPC on May 19, 1972, and approved by the Council on July 26, 1972).

(b) The Mayor, after referral to the National Capital Planning Commission for a 30-day review period, shall transmit to the Council a proposed resolution to approve a modification authorized by this section. The proposed resolution shall be submitted for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed resolution within the 45-day review period, the proposed resolution shall be deemed approved.

(Mar. 26, 2008, D.C. Law 17-138, § 501, 55 DCR 1689; Mar. 25, 2009, D.C. Law 17-353, § 310, 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-353, in subsec. (b), substituted “The Mayor, after referral to the National Capital Planning Commission for a 30-day review period,” for “The Mayor”.

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Eco-

nomic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

PART E.

EMINENT DOMAIN.

§ 2-1225.41. Eminent domain.

(a) The repeal of subchapter X of this chapter, under section 103(a) of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689) shall not impair or affect the validity of the acquisition by the NCRC or the RLARC of any properties nor shall the repeal affect the authority under which properties were previously taken, or for which condemnation proceedings were initiated, under § 2-1219.19 [repealed].

(b) Condemnation proceedings initiated by the NCRC or the RLARC under § 2-1219.19 [repealed] may be continued or reinstituted by the Mayor in the name of the District and the Mayor may rely upon the authority pursuant to which the NCRC or the RLARC acted as well as the findings previously made by the Council and by the NCRC or the RLARC in connection with the condemnation proceedings or the authority granted to the Mayor pursuant to § 16-1311.

(Mar. 26, 2008, D.C. Law 17-138, § 601, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 501, added a section to read as follows:

“Sec. 501. Eminent domain.

“(a) The repeal of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C.

Official Code § 2-1219.01 et seq.) (“NCRC Act”), under section 103(a) shall not impair or affect the validity of the acquisition by the NCRC or the RLARC of any properties nor shall the repeal affect the authority under which properties were previously taken, or for which condemnation proceedings were initiated, under

section 20 of the NCRC Act (D.C. Official Code § 2-1219.19).

“(b) Condemnation proceedings initiated by the NCRC or the RLARC under section 20 of the NCRC Act may be continued or reinstituted by the Mayor in the name of the District and the Mayor may rely upon the authority pursuant to which the NCRC or the RLARC acted as well as the findings previously made by the Council and by the NCRC or the RLARC in connection with the condemnation proceedings or the authority granted to the Mayor pursuant to D. C. Official Code § 16-1311.”

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 501 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 501 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

§ 2-1225.42. Further exercise of eminent domain at Skyland Shopping Center.

(a) The Council affirms the findings made in section 2 of the National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Amendment Act of 2004, effective April 5, 2005 (D.C. Law 15-286; 52 DCR 859) (“Skyland Eminent Domain Act”).

(b) The Mayor may exercise eminent domain in accordance with the procedures set forth in subchapter II of Chapter 13 of Title 16 to acquire properties in the Skyland Eminent Domain Area for the purpose of redeveloping the Skyland Shopping Center in order to achieve the public purposes set forth in section 2(a)(15) of the Skyland Eminent Domain Act.

(c) For the purposes of this section, the term “Skyland Eminent Domain Area” means: Square 5632, Lot 1; Square 5632, Lot 3; Square 5632, Lot 4; Square 5632, Lot 5; Square 5632, Lot 802; Square 5633, Lot 800; Square 5633, Lot 801; Square 5641, Lot 0010; Square 5641, Lot 0011; Square 5641, Lot 0012; Square 5641, Lot 0013; Square 5641, Lot 0819; Square 5641N, Lot 0012; Square 5641N, Lot 0013; Square 5641N, Lot 0014; Square 5641N, Lot 0015; Square 5641N, Lot 0016; Square 5641N, Lot 0017; Square 5641N, Lot 0018; Square 5641N, Lot 0019; Square 5641N, Lot 0020; Square 5641N, Lot 0021; Square 5641N, Lot 0022; Square 5641N, Lot 0023; Square 5641N, Lot 0024; Square 5641N, Lot 0025; Square 5641N, Lot 0026; Square 5641N, Lot 0027; Square 5641N, Lot 0028; Square 5641N, Lot 0029; Square 5641N, Lot 0030; Square 5641N, Lot 0031; Square 5641N, Lot 0033; Parcel 02130052; Parcel 02130060; Parcel 02130061; Parcel 02140062; Parcel 02140088; Parcel 02140104; Parcel 02140182; Parcel 02140187; Parcel 02140189; Parcel 02140190; Parcel 02140196; and any other parcel or property located within the geographic area bounded by a line beginning at a point at the intersection of the northerly line of Good Hope Road, S.E., with the northerly line of Alabama Avenue, S.E., and running northwesterly along said line of Good

Hope Road, S.E., extended, to intersect a point on the east line of Naylor Road, S.E.; thence northwesterly along said line of Naylor Road to a point at the northwesterly corner of Lot 801 in Square 5633; thence northeasterly along the northerly line of said lot and square to a point at the westernmost corner of Parcel 213/52; thence continuing northeasterly along the northerly line of said Parcel 213/52 to a point at the southwesterly corner of Parcel 213/60; thence northwesterly along the arc of a curve, deflecting to the right, along the westerly line of said Parcel 213/60 to a point at the northernmost corner of said Parcel 213/60; thence southeasterly along the easterly lines of said Parcels 213/60 and 213/52 to a point at the northwesterly corner of Lot 33 in Square North of Square 5641; thence easterly along the north property lines of said Lot 33 and Lots 16 through 31, both inclusive, in Square north of Square 5641 to a point at the northeast corner of said Lot 31 in said square; thence south along the east line of said Lot 31 in said square to a point at the southeast corner thereof; thence westerly along the south lines of said Lots 31, 30, 29, 28, 27, 26, 25, 24, 23 and 22 in said square to a point at the southwest corner of said Lot 22 to intersect a line drawn northwesterly from the northeast corner of Lot 12 in Square North of Square 5641; thence southeasterly along said line drawn and the east line of said Lot 12 in said square to a point at the southeast corner thereof to a point that intersects a line drawn northwesterly from the northeast corner of Lot 13 in Square 5641; thence southeasterly along said line drawn and the east line of said Lot 13 in said square to a point at the southeast corner thereof; thence southwesterly along the south property lines of Lots 13 and 12 in Square 5641 to a point that intersects a line drawn northwesterly from the northeast corner of Lot 819 in Square 5641; thence southeasterly along said line drawn and the east line of said Lot 819 in said square to a point at the southeast corner of said Lot 819 in said square, on the north line of Alabama Avenue, S.E.; and thence southwesterly along the arc of a circle deflecting to the right along said line of Alabama Avenue, to the point of beginning.

(Mar. 26, 2008, D.C. Law 17-138, § 602, 55 DCR 1689.)

Emergency legislation. — For temporary (90 day) addition of sections, see §§ 2032 to 2036 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 2032 to 2036 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act

of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1225.41.

References in text. — Section 2 of the Skyland Eminent Domain Act, referred to in subsections (a) and (b), is D.C. Law 15-286, § 2, noted in § 2-1219.19.

Subchapter XIV. Economic Development Along the Anacostia Waterfront.

PART A.

ECONOMIC DEVELOPMENT ALONG THE ANACOSTIA WATERFRONT.

§ 2-1226.01. Implementation of the Framework Plan.

(a) For all projects within the Anacostia Waterfront Development Zone, the Mayor shall:

(1) Implement, induce, assist, facilitate, and coordinate implementation of the Anacostia Waterfront Framework Plan, dated November 2003, as amended or supplemented ("Framework Plan"), and any small area plans within the Anacostia Waterfront Development Zone approved by the Council;

(2) Induce, assist, and facilitate efforts to improve the environmental integrity of waterways within the Anacostia Waterfront Development Zone; and

(3) Exercise regional leadership for the restoration of the Anacostia River.

(b) The Mayor may amend or supplement the Framework Plan; provided, that a proposed amendment or supplement shall be:

(1) Made available by the Mayor to the public for a 30-day period of public review and comment; and

(2) Submitted to the Council for a 60-day period of review, excluding days of Council recess, along with a proposed resolution to approve the proposed amendment or supplement. If the Council does not approve or disapprove the proposed resolution within the 60-day period, the proposed amendment or supplement shall be deemed disapproved.

(Mar. 26, 2008, D.C. Law 17-138, § 401, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 401, added a section to read as follows:

"Sec. 401. Anacostia Waterfront Initiative and Framework Plan.

"(a) The Mayor shall be guided by the Anacostia Waterfront Initiative Framework Plan, dated November 2003, as amended or supplemented ('Framework Plan'), and any small area plan approved by the Council with respect to the projects carried out inside the Anacostia Waterfront Development Zone.

"(b) The Mayor may amend or supplement the Framework Plan; provided, that the Mayor shall transmit to the Council for a 45-day period of review, excluding days of Council recess, a proposed resolution to approve any proposed amendment or supplement. If the Council does not approve or disapprove the proposed resolution within the 45-day period, the proposed resolution shall be deemed approved."

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 401 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 401 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — Law 17-138, the "National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008", was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Eco-

conomic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Editor's notes. — Section 801 of D.C. Law

17-138 provided: "This act shall sunset on September 30, 2008, if the fiscal effect of this act has not been included in an approved budget and financial plan."

Section 305(a) of D.C. Law 17-353 repeals section 801 of D.C. Law 17-138. Section 305(b) of D.C. Law 17-353 provided that this section shall apply as of September 29, 2009.

§ 2-1226.02. Provisions applicable to development projects located within the Anacostia Waterfront Development Zone.

(a) In contracting with general contractors, developers, or construction managers on, and in providing assistance of over \$100,000 to, a development project located within the Anacostia Waterfront Development Zone, the Mayor shall require the general contractor, developer, and construction manager of the development project to engage in good faith efforts to:

(1) Procure and contract 35% of the dollar volume of its goods and services, including construction goods and services, with local, small, and disadvantaged business enterprises, with a preference for at least 10% of those enterprises located in Ward 8;

(2) Ensure that at least 51% of the new jobs created in connection with the project are filled by residents of the District, with a preference for at least 20% of those jobs designated for residents in Ward 8; and

(3) Utilize the workforce intermediary as defined in § 2-1226.03 as the primary means of meeting the hiring requirement of paragraph (2) of this subsection.

(b)(1) With respect to development projects on real property owned, controlled, or disposed of by any instrumentality of the District within the Anacostia Waterfront Development Zone, no less than 15% of the residential units shall be affordable to moderate-income households and at least 15% of the units shall be affordable to low-income households.

(2) For the purposes of this subsection, the term:

(A) "Affordable" means housing for which a household at the required affordability level will pay no more than 30% of its income toward gross housing costs for 50 years in the case of rental units, and 20 years for homeownership units.

(B) "Area median income" means:

(i) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development;

(ii) For a household of 3 persons, 90% of the area median income for a household of 4 persons;

(iii) For a household of 2 persons, 80% of the area median income for a household of 4 persons;

(iv) For a household of one person, 70% of the area median income for a household of 4 persons; and

(v) For a household of more than 4 persons, the area median income for a household of 4 persons, increased by 10% of the area median income for a family of 4 persons for each household member exceeding 4 persons.

(C) "Low-income household" means a household consisting of one or more persons with income equal to or less than 30% of the area median income.

(D) "Moderate-income household" means a household consisting of one or more persons with income equal to or less than 60% of the area median income and greater than 30% of the area median income.

(3) Any percentage of household income referenced in this subsection shall be determined through a direct mathematical calculation and shall not take into account any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.

(Mar. 26, 2008, D.C. Law 17-138, § 402, 55 DCR 1689; Mar. 3, 2010, D.C. Law 18-107, § 2, 57 DCR 20.)

Effect of amendments. — D.C. Law 18-107 rewrote subsec. (b)(1), which had read as follows: "(b)(1) With respect to development projects on real property owned, controlled, or disposed of by any instrumentality of the District within the Anacostia Waterfront Development Zone, no less than the following percentages of residential units shall be affordable at the following income levels: (A) For ownership units, at least 15% units shall be affordable to moderate-income households and at least 15% of the units shall be affordable to low-income households. (B) For rental units, at least 15% of units shall be affordable to moderate-income households and at least 15% of units shall be affordable to low-income households."

Temporary Addition of Section. — D.C. Law 17-53, § 403, added a section to read as follows:

"Sec. 403. Provisions applicable to development projects located within the Anacostia Waterfront Development Zone.

"(a) In contracting with general contractors, developers, or construction managers on, and in providing assistance of over \$100,000 to, a development project located within the Anacostia Waterfront Development Zone, the Mayor shall require the general contractor, developer, and construction manager of the development project to engage in good faith efforts to:

"(1) Procure and contract 35% of the dollar volume of its goods and services, including construction goods and services, with local, small, and disadvantaged business enterprises, with a preference for at least 10% of those enterprises located in Ward 8; and

"(2) Ensure that at least 51% of the new jobs created in connection with the project are filled by residents of the District, with a preference for at least 20% of those jobs designated for residents in Ward 8.

"(b)(1) With respect to development projects on real property owned by the District within the Anacostia Waterfront Development Zone, no less than the following percentages of residential units shall be affordable at the following income levels:

"(A) For ownership units, at least 15% of the units shall be affordable to moderate-income households and at least 15% of the units shall be affordable to low-income households.

"(B) For rental units, at least 15% of the units shall be affordable to moderate-income households and at least 15% of the units shall be affordable to low-income households.

"(2) For the purposes of this subsection, the term:

"(A) 'Affordable' means housing for which a household at the required affordability level will pay no more than 30% of its income toward gross housing costs for 50 years in the case of rental units, and 20 years for homeownership units.

"(B) 'Area median income' means:

"(i) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development;

"(ii) For a household of 3 persons, 90% of the area median income for a household of 4 persons;

"(iii) For a household of 2 persons, 80% of the area median income for a household of 4 persons;

"(iv) For a household of one person, 70% of the area median income for a household of 4 persons; and

"(v) For a household of more than 4 persons, the area median income for a household of 4 persons, increased by 10% of the area median

income for a family of 4 persons for each household member exceeding 4 persons.

“(C) ‘Low-income household’ means a household consisting of one or more persons with income equal to or less than 30% of the area median income.

“(D) ‘Moderate-income household’ means a household consisting of one or more persons with income equal to or less than 60% of the area median income and greater than 30% of the area median income.

“(3) Any percentage of household income referenced in this subsection shall be determined through a direct mathematical calculation and shall not take into account any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 403 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarifica-

tion Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 403 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.01.

Legislative history of Law 18-107. — Law 18-107, the “Affordable Housing For-Sale and Retail Distribution Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-304, which was referred to the Committee on Economic Development. The bill was adopted on first and second readings on November 3, 2009, and December 1, 2009, respectively. Signed by the Mayor on December 17, 2009, it was assigned Act No. 18-245 and transmitted to both Houses of Congress for its review. D.C. Law 18-107 became effective on March 3, 2010.

Editor’s notes. — Section 3 of D.C. Law 18-107 provided: “This act shall apply as of December 16, 2008.”

§ 2-1226.03. Workforce intermediary.

(a) The Mayor shall use a workforce intermediary as the primary means of meeting the hiring requirements of § 2-1226.02(a)(2).

(b)(1) If prior to July 20, 2007, the former AWC has selected an organization or organizations to serve as a workforce intermediary, the Mayor shall continue to use the organization or organizations as a workforce intermediary; provided, that the Mayor may select additional organizations and may terminate the use of the organization or organizations selected by the former AWC.

(2) If prior to July 20, 2007, the former AWC has not selected an organization or organizations to serve as a workforce intermediary, then by August 20, 2007, the Mayor shall issue a request for proposals designed to select an organization or organizations to serve as a workforce intermediary. Within 120 days after issuing the request for proposals, the Mayor shall select an organization or organizations to serve as a workforce intermediary.

(c) For the purposes of this section, the term “workforce intermediary” means an entity established or chosen by the Mayor, or the former AWC, that is modeled on similar, successful entities in other cities and is designed to meet the hiring goals of § 2-1226.02(a)(2) by coordinating the needs and capacities of businesses that are creating new jobs in the Anacostia Waterfront Development Zone, workforce development organizations that serve residents of the District, and residents of the District who are seeking jobs in the Anacostia Waterfront Development Zone.

(Mar. 26, 2008, D.C. Law 17-138, § 403, 55 DCR 1689.)

Temporary Addition of Section. — Section 2 of D.C. Law 19-55 added a section to read as follows:

“Sec. 2. Establishment of Workforce Intermediary Task Force.

“(a)(1) By November 1, 2011, the Mayor shall establish a Workforce Intermediary Task Force (“Task Force”) to review best practices for workforce intermediary programs.

“(2) The Task Force shall review similar programs implemented by the governments of Boston, Minneapolis, San Francisco, and any other cities that have implemented similar programs.

“(3) By January 15, 2012, the Task Force shall recommend to the Mayor and the Council a Workforce Intermediary Program (“Program”) for the District. The recommendation shall include a review of:

“(A) The industries, in addition to the construction industry, that should be a focal point of the Program because they are frequently required to enter into first source agreements;

“(B) What would be a reasonable operating budget for the Program, including a cap on administrative costs;

“(C) What would be a reasonable funding mechanism for the Program;

“(D) How the Program would collaborate with multiple District government agencies and community-based organizations to serve job-ready residents as well as residents needing job-training services or adult basic education services;

“(E) The specific performance metrics that should be used to assess the performance of the Program’s process and outcomes;

“(F) The baseline data that would be needed to isolate, to the fullest extent possible, the effects of the Program;

“(G) The type of governance structure that would work best for establishing the Program and for the ongoing operations of the Program; and

“(H) What programmatic and statutory recommendations would be necessary regarding how the Program will interact with the District’s First Source Register program.

“(b)(1) The recommendations shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. Upon receipt of the recommendations, the Council shall hold a public roundtable or hearing. If the Council does not approve or disapprove the recommendations, in whole or in part, by resolution within the 45-day review period, the recommendations shall be deemed disapproved.

“(2) If the recommendations are disapproved by the Council, the Council’s Committee on Housing and Workforce Development shall transmit a report to the Task Force citing the

Council’s concerns and the Task Force shall have 30 days to review the report and resubmit its new recommendations to the Mayor and the Council for approval pursuant to paragraph (1) of this subsection.

“(c) The Task Force shall consist of the following 17 members:

“(1) The Mayor, or his designee;

“(2) The Chairman of the Council, or his designee;

“(3) The Chairman of the Council’s Committee on Housing and Workforce Development, or his designee;

“(4) The Director of the Department of Employment Services;

“(5) The Deputy Mayor for Planning and Economic Development, or his designee;

“(6) The Executive Director of the Workforce Investment Council;

“(7) Two members of the District business community who represent industries that are frequently subject to first source agreements, appointed by the Mayor;

“(8) Two members of the District business community who represent industries that are frequently subject to first source agreements, appointed by the Chairman of the Council;

“(9) A representative of a District job training or education provider, appointed by the Mayor;

“(10) A representative of a District job training or education provider, appointed by the Chairman of the Council;

“(11) Two representatives of organized labor, appointed by the Mayor;

“(12) A representative of organized labor, appointed by the Chairman of the Council;

“(13) A representative of the District philanthropic community or an organization focused on workforce development research, appointed by the Mayor; and

“(14) A representative of the District philanthropic community or an organization focused on workforce development research, appointed by the Chairman of the Council.

“(d) The Mayor and the Chairman of the Council shall serve as co-chairs of the Task Force.

“(e) The director of each District agency and instrumentality that engages in capital construction shall advise and assist the Task Force.”

Section 4(b) of D.C. Law 19-55 provided that the act shall expire after 225 days of its having taken effect.

Temporary Addition of Section. — D.C. Law 17-53, § 404, added a section to read as follows:

“Sec. 404. Workforce intermediary.

“(a) The Mayor shall use the workforce intermediary as the primary means of meeting the hiring requirements of section 403(a)(2).

“(b)(1) If prior to July 20, 2007, the former AWC has selected an organization or organiza-

tions to serve as a workforce intermediary, the Mayor shall continue to use the organization or organizations as a workforce intermediary; provided, that the Mayor may select additional organizations and may terminate the use of the organization or organizations selected by the former AWC.

“(2) If prior to July 20, 2007, the former AWC has not selected an organization or organizations to serve as a workforce intermediary, then within 30 days after July 20, 2007, the Mayor shall issue a request for proposals designed to select an organization or organizations to serve as a workforce intermediary. Within 120 days after issuing the request for proposals, the Mayor shall select an organization or organizations to serve as a workforce intermediary.

“(c) For the purposes of this section, the term ‘workforce intermediary’ means an entity established by the Mayor or the former AWC and modeled on similar, successful entities in other cities, to meet the hiring goals of section 403(a)(2) by coordinating the needs and capacities of businesses that are creating new jobs in the Anacostia Waterfront Development Zone, workforce development organizations that serve residents of the District, and residents of

the District who are seeking jobs in the Anacostia Waterfront Development Zone.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 404 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 404 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

For temporary (90 day) addition of section, see § 2 of Workforce Intermediary Task Force Establishment Emergency Act of 2011 (D.C. Act 19-131, August 2, 2011, 58 DCR 6789).

For temporary (90 day) addition of section, see § 2 of Workforce Intermediary Task Force Establishment Second Emergency Act of 2011 (D.C. Act 19-167, October 11, 2011, 58 DCR 8900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.01.

§ 2-1226.04. Definition of Anacostia Waterfront Development Zone.

For the purpose of this subchapter, the term “Anacostia Waterfront Development Zone” means:

(1) Interstate 395 and all rights-of-way of Interstate 395, within the District, except for the portion of Interstate 95 that is north of D Street, N.W., and N.E.;

(2) All land between that portion of Interstate 395 that is south of D Street, N.W., and N.E., and the Washington Channel;

(3) All land between that portion of Interstate 395 that is south of D Street, N.W. and N.E., and the Anacostia River;

(4) The portion of Interstate 295 that is north of the Anacostia River, within the District, and all rights-of-way of that portion of Interstate 295;

(5) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;

(6) The portion of the Anacostia Freeway that is north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;

(7) All land between that portion of the Anacostia Freeway described in paragraph (6) of this section and the Anacostia River;

(8) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map, dated January 2002, except for the land that is:

(A) North of New York Avenue, N.E.;

(B) East of the Anacostia Freeway;

(C) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King, Jr. Avenue; and

(D) South of a line drawn along, and as a continuation both east and west of, the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;

(9) All land, excluding Eastern High School, that is:

(A) Adjacent to the land described in paragraph (7) of this section;

(B) West of the Anacostia River; or

(C) Designated as a local public facility on the District of Columbia Generalized Land Use Map, dated January 2002;

(10) All land that is:

(A) South or east of that portion of Potomac Avenue, S.E., between Interstate 295 and 19th Street, S.E.; and

(B) West or north of the Anacostia River;

(11) The portion of the Anacostia River within the District; and

(12) The Washington Channel.

(Mar. 26, 2008, D.C. Law 17-138, § 404, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 405, added a section to read as follows:

“Sec. 405. Definition of Anacostia Waterfront Development Zone.

“For the purposes of this title, the term ‘Anacostia Waterfront Development Zone’ shall consist of the following:

“(1) Interstate 395 and all rights-of-way of Interstate 395, except for the portion of Interstate 95 that is north of D Street, N.W., and N.E.;

“(2) All land between that portion of Interstate 395 that is south of D Street, N.W., and N.E., and the Washington Channel;

“(3) All land between that portion of Interstate 395 that is south of D Street, N.W., and N.E., and the Anacostia River;

“(4) The portion of Interstate 295 that is north of the Anacostia River and all rights-of-way of that portion of Interstate 295;

“(5) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;

“(6) The portion of the Anacostia Freeway that is north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;

“(7) All land between that portion of the Anacostia Freeway described in paragraph (6) of this subsection and the Anacostia River;

“(8) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map dated January 2002, except for the land that is:

“(A) North of New York Avenue, N.E.;

“(B) East of the Anacostia Freeway;

“(C) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King Jr. Avenue;

“(D) South of a line drawn along, and as a continuation both east and west of, the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;

“(9) All land, excluding Eastern High School, that is:

“(A) Adjacent to the land described in paragraph (7) of this subsection;

“(B) West of the Anacostia River; or

“(C) Designated as a local public facility on the District of Columbia Generalized Land Use Map;

“(10) All land that is:

“(A) South or east of that portion of Potomac Avenue, S.E., between Interstate 295 and 19th Street, S.E.; and

“(B) West or north of the Anacostia River;

“(11) The portion of the Anacostia River within the District; and

“(12) The Washington Channel.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 405 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 405 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review

Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.01.

PART B.

ANACOSTIA WATERFRONT ENVIRONMENTAL STANDARDS.

§ 2-1226.31. **Short title.**

This part may be cited as the “Anacostia Waterfront Environmental Standards Act of 2008”.

(Mar. 26, 2008, D.C. Law 17-138, § 451, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 402, added a section to read as follows:

“Sec. 402. Environmental standards.

“The Mayor shall continue to maintain and apply the environmental standards adopted by the Anacostia Waterfront Corporation Board of Directors on June 1, 2007, to all of the properties, projects, initiatives, and developments within the Anacostia Waterfront Development Zone.”

Section 702(b) of D.C. Law 17-53 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 402 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 402 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008”, was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

§ 2-1226.32. **Definitions.**

(a) For the purposes of this part, the term:

(1) “Applicant” shall have the same meaning as set forth in § 6-1451.01(2).

(1A) “Current edition” shall have the same meaning as provided in § 6-1451.01 (8A).

(2) “Green Building Act” means chapter 14A of Title 6 [§ 6-1451.01 et seq.].

(3) “LEED” shall have the same meaning as provided in § 6-1451.01(26).

(3A) “LEED standard for commercial and institutional buildings” shall have the same meaning as provided in § 6-1451.01(31A).

(4) “New construction” shall have the same meaning as set forth in § 6-1451.01(33).

(5) “Project” shall have the same meaning as set forth in § 6-1451.01(35).

(6) “Publicly-financed” shall have the same meaning as ‘public financing’ as set forth in § 6-1451.01(38).

(7) “Substantial improvement” shall have the same meaning as set forth in § 6-1451.01(40).

(Mar. 26, 2008, D.C. Law 17-138, § 452, 55 DCR 1689; Mar. 31, 2011, D.C. Law 18-349, § 4(a), 58 DCR 724.)

Effect of amendments. — D.C. Law 18-349 added subsecs. (a)(1A) and (3A); and rewrote subsec. (a)(3), which formerly read as follows: “(3) ‘LEED’, ‘LEED-CI’, ‘LEED-CS’, and ‘LEED-NC’ shall have the same meanings as set forth in § 6-1451.01(26), (27), (28), and (30).”

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

Legislative history of Law 18-349. — Law 18-349, the “Green Building Technical Corrections, Clarification, and Revision Amendment

Act of 2010”, was introduced in Council and assigned Bill No. 18-377, which was referred to the Committee Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-698 and transmitted to both Houses of Congress for its review. D.C. Law 18-349 became effective on March 31, 2011.

§ 2-1226.33. Applicability of part.

(a) This part shall apply as follows:

(1) To development projects located within the Anacostia Waterfront Development Zone as defined in § 2-1226.04; and

(2) To publicly-owned or publicly-financed non-residential and residential new construction or substantial improvement projects, which are:

(A) Initially funded in the Fiscal Year 2008 budget or later; or

(B) Constructed or substantially improved:

(i) As a result of a property disposition by lease or sale where District-owned or District instrumentality-owned property is leased or sold to private entities; or

(ii) Where 15% or more of a project’s total project cost is publicly financed in Fiscal Year 2009 or later.

(b) The requirements set forth in §§ 2-1226.34, 2-1226.35, 2-1226.37, and 2-1226.38 shall apply to publicly-owned or publicly-financed projects beginning on March 26, 2008.

(c) The requirements set forth in § 2-1226.36 shall apply to publicly-owned or publicly-financed projects beginning on the effective date of rules issued by the Mayor to implement § 2-1226.36.

(d) The requirements set forth in §§ 2-1226.34, 2-1226.35, and 2-1226.37 shall apply to private projects beginning with projects for which the first building construction permit application is submitted to the Mayor after January 1, 2012.

(Mar. 26, 2008, D.C. Law 17-138, § 453, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.34. Integrated environmental design standards.

All projects subject to this part shall comply with the following integrated environmental design standards:

(1) The applicant for the project shall engage in pre-development and

on-going consultation with appropriate District officials to review the plans of the applicant to ensure compliance with the standards imposed by this part.

(2) The applicant for the project shall retain a LEED-accredited professional or maintain an experienced LEED-accredited member on-staff.

(3) The applicant for the project shall prepare and submit to the Mayor a sustainability plan as a component of the concept design package, which shall identify the project approach and elements used to satisfy the requirements of this part. The sustainability plan shall include an analysis of energy use, green building, site planning and preservation, and stormwater management.

(4) The applicant for the project shall submit to the Mayor any draft or final checklists and other materials submitted to demonstrate LEED, Green Communities, and ENERGY STAR compliance.

(Mar. 26, 2008, D.C. Law 17-138, § 454, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.35. Green building standards.

(a) All projects subject to this section shall comply with the following green building standards:

(1) Non-residential new construction or substantial improvement projects shall:

(A) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the gold level;

(B) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the gold level for improvements to interiors of new or existing non-residential buildings;

(C) Comply with the ENERGY STAR requirements of the Green Building Act and, in addition:

(i) Achieve 85 points on the Environmental Protection Agency national energy performance rating system; and

(ii) Be designed to be 30% more energy efficient than required by ASHRAE 90.1 2004, or a later standard adopted by the Mayor pursuant to § 2-1226.41; and

(D) Provide ENERGY STAR Benchmark and Target Finder scores and ENERGY STAR statements to the District Department of the Environment (“DDOE”) and the Department of Consumer and Regulatory Affairs (“DCRA”) within 60 days after the scores are generated; and

(2)(A) Residential new construction and substantial improvement projects shall:

(i) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the silver level; and

(ii) Achieve the ENERGY STAR label and be 30% more energy efficient than required by ASHRAE 90.1 2004, or such later standard adopted by the Mayor pursuant to § 2-1226.41; and

(B) Residential new construction and substantial improvement projects may, if the project is a District-financed project that receives public financing

for the purpose of assisting in the new construction or substantial rehabilitation of affordable housing, apply the Green Communities standards as an alternative to LEED for the affordable units within the project; provided, that the project shall achieve the ENERGY STAR label and be 30% more energy efficient than required by ASHRAE 90.1 2004, or a later standard adopted by the Mayor pursuant to § 2-1226.41.

(b) The Mayor shall encourage developers to seek to align the project design with the greenhouse gas reduction goals in the “2030 Challenge” as adopted by the American Institute of Architects and United States Conference of Mayors.

(c) The DDOE, in coordination with the DCRA and other appropriate agencies shall, to the greatest extent practical, coordinate the implementation of the standards established by this section with implementation of the Green Building Act.

(Mar. 26, 2008, D.C. Law 17-138, § 455, 55 DCR 1689; Mar. 31, 2011, D.C. Law 18-349, § 4(b), 58 DCR 724.)

Effect of amendments. — D.C. Law 18-349, in subsecs. (a)(1)(A) and (2)(A)(i), substituted “current edition of the LEED standard for commercial and institutional buildings” for “LEED-NC 2.2 standard or LEED-CS 2.0 standard”; and, in subsec. (a)(1)(B), substituted “current edition of the LEED standard for com-

mercial and institutional buildings” for “LEED-CI standard”.

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

Legislative history of Law 18-349. — For history of Law 18-349, see notes under § 2-1226.32.

§ 2-1226.36. Stormwater control standards.

(a) Private and public space, including buildings, sidewalks, streets, and lawns, within a project subject to this part shall, whether or not the project discharges to separate or combined sewer systems, be designed, constructed, and maintained to comply with the following stormwater control standards:

(1) Reduce stormwater quantity by retaining and beneficially reusing on-site the stormwater generated on-site by a “1 inch in 24 hours” storm following 48 hours of dry conditions; provided, that if the DDOE determines that site conditions, including, soil or groundwater contamination, local geology, or impacts on surrounding landowners, limit the feasibility or appropriateness of on-site stormwater management, off-site mitigation or payment in lieu of mitigation may be used; provided further, that the volume treated equals 1.5 times the volume that would have been required to be treated on-site or 2 times its financial equivalent (where payment is made in lieu of mitigation);

(2) Improve stormwater quality by filtering all stormwater flowing from the project, up to the volume of a 2-year design storm, by passing the flow through a vegetated filtering medium or other on-site controls designed to remove sediment and pollutants of concern as identified in permits by the DDOE or the District of Columbia Water and Sewer Authority (“WASA”), so that the discharges will not cause or contribute to the exceedance of any water-quality standard applicable to the receiving water or cause interference or pass-through of pollutants at the Blue Plains receiving facility;

(3) Achieve the required level of stormwater control using the following methods, identified in order of preference:

(A) Vegetated controls designed to retain and beneficially use stormwater;

(B) Where compatible with groundwater protection, non-vegetated controls designed to promote infiltration;

(C) Other low-impact development practices;

(D) Collection and reuse of stormwater for on-site irrigation; and

(E) Other on-site design techniques as approved by the DDOE;

(4) Employ, where feasible, low-impact development technologies for public spaces regulated by District Department of Transportation ("DDOT");

(5) Restrict the on-site use of:

(A) Fertilizers, pesticides, and herbicides through use of an integrated pest management plan reviewed by the DDOE; and

(B) Coal tar sealants for paved surfaces;

(6) Design stormwater controls to prevent migration of stormwater into contaminated underlying soils or groundwater;

(7) Certify that remediation of contaminated soils or groundwater is either completed as part of the development or that properly functioning long-term remedial measures are in place;

(8) Treat any groundwater produced at a project during construction or after completion of construction to remove sediment and pollutants of concern as required by the DDOE or United States Environmental Protection Agency, depending on which agency has jurisdiction; and

(9) Require that any groundwater discharged from the site into the sanitary sewer system conform to WASA requirements designed to ensure that it will not cause or contribute to the exceedance of any water quality standard applicable to the receiving water or cause interference or pass through of pollutants at the Blue Plains receiving facility.

(b) The DDOE may:

(1) Monitor and inspect projects that are subject to the standards imposed by this part for compliance with these standards; and

(2) Require appropriate monitoring, sampling, analysis, record-keeping and annual certification of ongoing compliance with the standards imposed by this part.

(Mar. 26, 2008, D.C. Law 17-138, § 456, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.37. Marina standards.

New or existing marinas within the Anacostia Waterfront Development Zone shall comply with the program elements outlined in the Clean Marina Guidebook issued by the National Park Service. The owner or applicant for the marina shall submit a copy of its Clean Marina Checklist and any supporting documentation to the DDOE.

(Mar. 26, 2008, D.C. Law 17-138, § 457, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.38. Site planning and preservation standards.

Projects subject to this part shall comply with the following site planning and preservation standards:

(1) The project shall be designed to ensure continued public access to the Anacostia River and associated waterways and to the Anacostia riverwalk and trail system.

(2) Existing public parks shall be preserved and the Mayor shall endeavor to minimize encroachment unless there is no feasible alternative. If the project encroaches on a public park, the encroachment shall be mitigated in kind at a minimum acreage ratio of at least 1-to-1 and the mitigation shall be of equal or greater quality than the parkland that is lost.

(3) No construction or development shall disturb delineated wetlands or land within 100 feet of delineated wetlands, which shall be maintained as a buffer, unless the DDOE and the U.S. Army Corps of Engineers both agree that construction in these areas cannot reasonably be avoided. Any impacts on wetlands approved by the DDOE shall require mitigation in-kind at a minimum acreage ratio of 3-to-1. The mitigation shall be provided on-site, unless on-site locations are unavailable or infeasible as determined by both the DDOE and the United States Army Corps of Engineers. Preference for mitigation should be given to restoring degraded wetlands or recreating former wetlands, not creating new wetlands. On-site remaining wetlands and buffers that are not impacts and off-site mitigation areas shall be permanently protected.

(4)(A) Streams that have been diverted into pipes or other constructed conveyances shall be daylit unless determined by the DDOE to be infeasible.

(B) For the purposes of this paragraph, the word “daylit” means the redirection of streams into above-ground channels in order to restore the streams to a more natural state and to enhance the riparian environment and ecological integrity of the Anacostia River system.

(5) The applicant shall ensure protection or creation of woodland and meadow riparian buffer zones along each bank of the Anacostia River defined in the Anacostia Waterfront Initiative Framework Plan of between 50 and 300 feet along the main channel of the Anacostia River, except where necessary to ensure public access and use of the waterfront. Development along tributary streams of the Anacostia River shall maintain a minimum riparian buffer of 25 feet. The DDOE may require a wider buffer along the channel or tributary streams where it is determined that a wider buffer zone is necessary to protect waterways.

(6) Roadways shall comply with the Anacostia Waterfront Transportation Architecture Design Standards developed by the DDOT.

(7) Applicants shall incorporate planted vegetated buffers within the right-of-way of all roadways to increase tree cover and shade, mitigate traffic

noise, absorb toxic emissions, and minimize stormwater runoff at levels determined by the DDOE by rulemaking.

(8) Applicants shall ensure sufficient tree planting to provide canopy coverage within 20 years of project occupancy of 30% of non-roof impervious surfaces and 40% of overall-non-roof surfaces within the project area.

(9) Development along both sides of the Anacostia River and along associated waterways shall, unless determined by the DDOE to be infeasible, include continuous, publicly accessible trails that comply with the Anacostia Riverparks Plan and Riverwalk Design Guidelines.

(10) Applicants shall coordinate with the DDOE on any habitat restoration activity to ensure consistency with the DDOE's Wildlife Action Plan.

(Mar. 26, 2008, D.C. Law 17-138, § 458, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.39. Exemptions to requirements.

(a) The Mayor may grant, upon a showing of good cause, an exemption from a requirement of this part, in whole or in part, if:

(1) There is evidence of a practical infeasibility or hardship of meeting the requirement; and

(2) The public interest would be better served by the exemption.

(b) When considering a request for an exemption, the Mayor may consider alternative measures proposed by the applicant.

(c) The Mayor shall give notice of any exemption granted pursuant to this section to the Council and affected Advisory Neighborhood Commission no less than 10 days from the date the exemption is granted. Notice of the exemption shall be published in the District of Columbia Register before the exemption may take effect.

(Mar. 26, 2008, D.C. Law 17-138, § 459, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.40. Relationship to Green Building Act, the Water Pollution Control Act, and other laws.

Where the environmental standards established by this part differ from those in Chapter 14A of Title 6, subchapter II of Chapter 1 of Title 8 [§ 8-103.01 et seq.], or other District law or regulation, the more stringent standard shall apply.

(Mar. 26, 2008, D.C. Law 17-138, § 460, 55 DCR 1689.)

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

§ 2-1226.41. Rulemaking.

(a) The Mayor shall issue rules within 180 days of March 26, 2008, to implement the requirements of this part.

(b) All rules promulgated under this part shall be submitted to the Council for review and approval.

(c) All rules promulgated under this part shall be submitted to the Council for review and approval.

(Mar. 26, 2008, D.C. Law 17-138, § 461, 55 DCR 1689.)

Temporary Addition of Section. — D.C. Law 17-53, § 501, added a section to read as follows:

“Sec. 501. Eminent domain.

“(a) The repeal of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 et seq.) (‘NCRC Act’), under section 103(a) shall not impair or affect the validity of the acquisition by the NCRC or the RLARC of any properties nor shall the repeal affect the authority under which properties were previously taken, or for which condemnation proceedings were initiated, under section 20 of the NCRC Act (D.C. Official Code § 2-1219.19).

“(b) Condemnation proceedings initiated by the NCRC or the RLARC under section 20 of the NCRC Act may be continued or reinstituted by the Mayor in the name of the District and the Mayor may rely upon the authority pursuant to which the NCRC or the RLARC acted as well as the findings previously made by the Council and by the NCRC or the RLARC in

connection with the condemnation proceedings or the authority granted to the Mayor pursuant to D. C. Official Code § 16-1311.”

Section 702(b) of D.C. Law 17-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 501 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Emergency Act of 2007 (D.C. Act 17-71, July 20, 2007, 54 DCR 7390).

For temporary (90 day) addition, see § 501 of National Capitol Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Clarification Congressional Review Emergency Act of 2007 (D.C. Act 17-152, October 18, 2007, 54 DCR 10900).

Legislative history of Law 17-138. — For Law 17-138, see notes following § 2-1226.31.

Delegation of Authority. — Delegation of Authority—Anacostia River Clean Up and Protection Act of 2009, see Mayor’s Order 2010-27, February 12, 2010 (57 DCR 1377).

CHAPTER 13. LATINO COMMUNITY.

UNIT A. LATINO COMMUNITY DEVELOPMENT

Subchapter I. General Provisions

Sec.

2-1301. Intent of Council.

Subchapter II. Definitions

2-1302. Definitions.

Subchapter III. Office on Latino Affairs

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2-1312. Appointment of Executive Director; compensation; staff.

2-1313. Functions of Director.

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2-1321. Established.

Sec.

2-1322. Composition.

2-1323. Qualifications for membership.

2-1324. Term of office.

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2-1327. Election of Chairperson.

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2-1341. Appropriation.

UNIT B. BILINGUAL TRANSLATION SERVICES

2-1342 to 2-1346. [Repealed].

Unit A. Latino Community Development.

Subchapter I. General Provisions.

§ 2-1301. Intent of Council.

It is the intent of the Council of the District of Columbia that the District government shall ensure that a full range of health, education, employment, and social services shall be available to the Latino community in the District of Columbia. The planning and monitoring of programs undertaken by the Office on Latino Affairs and the Commission in partnership with members of the Latino community, families, community leaders, private agencies, and the District of Columbia government shall serve as an impetus to making the Latino community an integral part of the District of Columbia community.

(Sept. 29, 1976, D.C. Law 1-86, title I, § 101, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2301. 1973 Ed., § 6-1901.

Legislative history of Law 1-86. — Law 1-86 was introduced in Council and assigned Bill No. 1-198, which was referred to the Committee on Government Operations. The Bill was adopted on first, amended first and second readings, and reconsideration of second reading, on April 20, 1976, June 15, 1976, May 18,

1976 and June 20, 1976, respectively. Signed by the Mayor on July 19, 1976, it was assigned Act No. 1-141 and transmitted to both Houses of Congress for its review.

Editor's notes. — Office of Spanish Affairs abolished: The Office of Spanish Affairs was abolished by the Act of September 29, 1976, D.C. Law 1-86, which Act established the Office on Latino Affairs.

Subchapter II. Definitions.

§ 2-1302. Definitions.

For the purposes of this chapter, the term:

(1) "Office" means the Office on Latino Affairs created by § 2-1311.

(2) "Director" means the Executive Director of the Office on Latino Affairs.

(3) "Commission" means the Commission on Latino Community Development created by § 2-1321.

(4) "Latino" or "Latino community" shall mean the people of Spanish origin who are residents of the District of Columbia.

(5) "Services to the Latino community" means those services designed to provide assistance, including but not limited to, nutritional programs, transportation services, health and financial assistance, employment and housing programs, recreational opportunities, information, referral, and counseling services.

(6) "Council" means the Council of the District of Columbia.

(Sept. 29, 1976, D.C. Law 1-86, title II, § 201, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2302.
1973 Ed., § 6-1902.

legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 1-86. — For

Subchapter III. Office on Latino Affairs.

§ 2-1311. Established.

There is established an Office on Latino Affairs. The Office shall provide within the District of Columbia government a single administrative unit, responsible to the Mayor, to administer such programs as shall be delegated to it by the Mayor, the Council, and the Commission, to promote the welfare of the Latino community.

(Sept. 29, 1976, D.C. Law 1-86, title III, § 301, 23 DCR 2543; Oct. 17, 1981, D.C. Law 4-42, § 9(c)(1), 28 DCR 3425.)

Cross references. — Administration, merit system, "subordinate agency" defined to include Office of Latino Affairs, see § 1-603.01.

Section references. — This section is referred to in § 2-1302.

Prior Codifications. — 1981 Ed., § 1-2311.
1973 Ed., § 6-1911.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 4-42. — Law 4-42 was introduced in Council and assigned Bill No. 4-197, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 16, 1981 and June 30, 1981, respectively. Signed by the Mayor on July 23, 1981, it was assigned Act No. 4-71 and transmitted to both Houses of Congress for its review.

§ 2-1312. Appointment of Executive Director; compensation; staff.

The Office shall be headed by a Director, who shall be appointed by the Mayor from a list of 3 or more names submitted to him or her by the Commission. The Director shall devote his or her full time to the duties of the Office. The salary of the Director shall be fixed in accordance with subchapter X-A of Chapter 6 of Title 1. He or she shall have such staff as is approved in the District of Columbia budget and federal or private grants, plus any temporary staff approved by the Office of Budget and Resource Development.

(Sept. 29, 1976, D.C. Law 1-86, title III, § 302, 23 DCR 2543; Mar. 3, 1979, D.C. Law 2-139, § 3205(u), 25 DCR 5740; Apr. 5, 2005, D.C. Law 15-274, § 2, 52 DCR 827.)

Cross references. — Effective date of this section, see § 1-636.02.

Prior Codifications. — 1981 Ed., § 1-2312. 1973 Ed., § 6-1912.

Effect of amendments. — D.C. Law 15-274, in the first sentence, substituted “a director” for “an Executive Director”; and rewrote the third sentence which had read as follows: “His or her annual compensation shall be fixed in accordance with Chapter 51 of Title 5, United States Code (relating to the classification of government employees and related matters), but shall be not lower than a GS 15, step 1 or equivalent compensation pursuant to the provisions of subchapter XI of Chapter 6 of Title 1.”

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 2-139. — Law 2-139 was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill

was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 15-274. — Law 15-274, the “Director of the Office of Latino Affairs Salary Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-275, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-665 and transmitted to both Houses of Congress for its review. D.C. Law 15-274 became effective on April 5, 2005.

References in text. — “GS 15, step 1,” referred to in the third sentence of this section, is contained in the General Schedule set out under § 5332 of Title 5, United States Code.

§ 2-1313. Functions of Director.

In order to carry out the purpose of this chapter, the Director shall:

- (1) Serve as an advocate for the Latino community in the District of Columbia;
- (2) Assist community organizations and the Commission in developing and submitting grant applications;
- (3) Provide information and technical assistance with respect to programs and services for the Latino community to the Mayor, the Commission on Latino Community Development, the Council, other District of Columbia agencies and departments, and the community;
- (4) Respond to recommendations and policy statements from the Commission within 30 days of written submission unless extended by mutual agreement of the Commission and the Office;
- (5) File an annual report on the operation of the Office with the Mayor, the Council, and the Commission;
- (6) Identify areas of need for service or improvement of service and bring them to the attention of the Mayor and Commission, with suggestions for meeting such needs, including conducting or funding research and demonstration projects to test such suggestions;
- (7) Carry responsibility for assuring necessary control, evaluation, audit, and reporting on programs funded through the Office;
- (8) Accept volunteer services and funds from public and private sector to supplement the budget in carrying out the planning duties and responsibilities of the Office;
- (9) Meet with the Spanish Program Coordinators within each department

and agency of the District of Columbia government having such offices as a group, at least once a month to coordinate activities within the government involving the Latino community; and

(10) Issue grants to organizations that provide services to Latino residents of the District of Columbia or in furtherance of the mission of the Office or the purposes of this chapter.

(Sept. 29, 1976, D.C. Law 1-86, title III, § 303, 23 DCR 2543; Sept. 24, 2010, D.C. Law 18-223, § 1052, 57 DCR 6242.)

Section references. — This section is referred to in § 2-1329.

Prior Codifications. — 1981 Ed., § 1-2313. 1973 Ed., § 6-1913.

Effect of amendments. — D.C. Law 18-223, in par. (8), deleted “and” from the end; substituted “; and” for a period at the end of par. (9), and added par. (10).

Temporary Amendment of Section. — Section 2 of D.C. Law 18-149, in par. (8), deleted “and” from the end; in par. (9), substituted “; and” for a period at the end; and added par. (10) to read as follows:

“(10)(A) Issue grants not to exceed \$3.7 million in the aggregate to organizations that provide services to Latino residents of the District of Columbia in furtherance of the mission of the Office or the purposes of this act.

“(B) Notwithstanding D.C. Official Code § 47-368.06, grants that may be issued pursuant to this paragraph include grants made with funds the Office receives through an intra-District transfer, a memorandum of under-

standing, or a reprogramming from an agency that does not have grantmaking authority.”.

Section 4(b) of D.C. Law 18-149 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of Office on Latino Affairs Grant-Making Authority Emergency Amendment Act of 2009 (D.C. Act 18-312, February 22, 2010, 57 DCR 1643).

For temporary (90 day) amendment of section, see § 1052 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title: Section 1051 of D.C. Law 18-223 provided that subtitle F of title I of the act may be cited as the “Office on Latino Affairs Grant-Making Authority Amendment Act of 2010”.

§ 2-1314. Spanish Program Coordinators. [Repealed].

Repealed.

(Sept. 29, 1976, D.C. Law 1-86, title III, § 304, 23 DCR 2543; June 19, 2004, D.C. Law 15-167, § 8(a), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2314. 1973 Ed., § 6-1914.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 15-167. — Law 15-167, the “Language Access Act of 2004”, was introduced in Council and assigned Bill No. 15-139, which was referred to the Subcommit-

tee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on March 2, 2004, and April 6, 2004, respectively. Signed by the Mayor on April 21, 2004, it was assigned Act No. 15-414 and transmitted to both Houses of Congress for its review. D.C. Law 15-167 became effective on June 19, 2004.

Subchapter IV. Commission on Latino Community Development.

§ 2-1321. Established.

There is hereby established a Commission on Latino Community Development to advise the Mayor, the Director of the Office on Latino Affairs, the Council, and the public concerning the views and needs of the Latino community in the District of Columbia.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 401, 23 DCR 2543; Oct. 17, 1981, D.C. Law 4-42, § 9(c)(2), 28 DCR 3425.)

Section references. — This section is referred to in § 2-1302.

Prior Codifications. — 1981 Ed., § 1-2321. 1973 Ed., § 6-1921.

Legislative history of Law 1-86. — For

legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 4-42. — For legislative history of D.C. Law 4-42, see Historical and Statutory Notes following § 2-1311.

§ 2-1322. Composition.

The Commission shall consist of 15 public (voting) members appointed by the Mayor. There shall also be the following ex-officio nonvoting members: The Directors of the Department of Human Services, Department of Housing and Community Development, Department of Recreation, Department of Transportation, Department of Manpower, the librarian of the District of Columbia Public Library, the Chief of the Metropolitan Police Department, and the Director of the Department of Licenses, Investigation and Inspections.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 402, 23 DCR 2543; June 12, 1999, D.C. Law 12-285, § 4(j), 46 DCR 1355.)

Prior Codifications. — 1981 Ed., § 1-2322. 1973 Ed., § 6-1922.

Emergency legislation. — For temporary amendment of section, see § 4(j) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

For temporary (90-day) amendment of section, see § 4(j) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 1-2301.

Legislative history of Law 12-285. — Law 12-285, the "Confirmation Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-261, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings

on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 5, 1999, it was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12-285 became effective on June 12, 1999.

References in text. — Pursuant to Mayor's Order 2000-20, the agency formerly known as the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

Transfer of Functions. — The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

The functions of the Department of Licenses, Investigations, and Inspections were transferred to the Department of Consumer and Regulatory Affairs, by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

§ 2-1323. Qualifications for membership.

Members shall be appointed with due consideration for representation from established public, nonprofit, and voluntary community organizations and agencies concerned with the Latino community and members of the general public who have given evidence of particular dedication to, and knowledge of, the needs of the Latino community. The membership of the Commission shall have at least 2 resident aliens.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 403, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2323.
1973 Ed., § 6-1923.

legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 1-86. — For

§ 2-1324. Term of office.

Members of the Commission shall serve terms of 3 years except that, of the initial membership, 5 shall be appointed for a term of 3 years, 5 for a term of 2 years, and 5 for 1 year. Members may be reappointed but may serve no more than 2 consecutive terms. A member may continue to serve until a successor is appointed.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 404, 23 DCR 2543; Mar. 16, 1982, D.C. Law 4-88, § 5(a), 29 DCR 458; Sept. 29, 1988, D.C. Law 7-171, § 2, 35 DCR 5754.)

Prior Codifications. — 1981 Ed., § 1-2324.
1973 Ed., § 6-1924.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 4-88. — Law 4-88 was introduced in Council and assigned Bill No. 4-271, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 24, 1981 and December 8, 1981, respectively. Signed by the Mayor on January

20, 1982, it was assigned Act No. 4-142 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-171. — Law 7-171 was introduced in Council and assigned Bill No. 7-362, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-227 and transmitted to both Houses of Congress for its review.

§ 2-1325. Appointments to vacancies.

When a vacancy develops on the Commission, the Mayor shall appoint a successor, with the advice and consent of the Council, to complete the unexpired term.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 405, 23 DCR 2543; Mar. 16, 1982, D.C. Law 4-88, § 5(b), 29 DCR 458.)

Prior Codifications. — 1981 Ed., § 1-2325.
1973 Ed., § 6-1925.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 4-88. — For legislative history of D.C. Law 4-88, see Historical and Statutory Notes following § 2-1324.

§ 2-1326. Rules of procedure.

The Commission shall develop its own rules of procedure, except they shall provide the Commission shall meet at least every other month. The meetings shall be held in those areas of the District of Columbia with the largest concentration of Latino residents. All meetings shall be open to the public. A quorum to transact business shall consist of a majority plus 1 of the voting members.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 406, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2326. legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.
1973 Ed., § 6-1926.

Legislative history of Law 1-86. — For

§ 2-1327. Election of Chairperson.

The Commission shall elect its own Chairperson.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 407, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2327. legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.
1973 Ed., § 6-1927.

Legislative history of Law 1-86. — For

§ 2-1328. Compensation.

All members shall serve without compensation, but expenses incurred by the Commission as a whole, or by its individual members, when duly authorized by the Chairperson, will become an obligation against appropriated District of Columbia and federal funds designated for that purpose.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 408, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2328. legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.
1973 Ed., § 6-1928.

Legislative history of Law 1-86. — For

§ 2-1329. Staff assistance.

The Commission shall have 1 paid staff person. In addition, the Director of the Office on Latino Affairs shall provide information and technical assistance as required under § 2-1313.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 409, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2329. 10-253, see § 813 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).
1973 Ed., § 6-1929.

Temporary Amendment of Section. — For temporary (225 day) repeal of section, see § 809 of the Multiyear Budget Spending Reduction and Support Temporary Act of 1995 (D.C. Law 10-253, Mar. 23, 1995, law notification 42 DCR 1652).

For temporary repeal of § 809 of D.C. Law

Section 813 of D.C. Law 11-52 repealed § 809 of D.C. Law 10-253.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

§ 2-1330. Functions.

(a) The Commission shall:

- (1) Serve as an advocate for Latino persons in the District of Columbia;
- (2) Review and submit to the Mayor, the Council, the Office on Latino Affairs, and the community an annual report including analysis of the needs of the Latino community in the District of Columbia;
- (3) Cooperate with other agencies (federal, state, private) concerned with activities pertaining to the Latino community;
- (4) Develop a list of at least 3 persons the Commission recommends for the position of Director of the Office on Latino Affairs and submit that list to the Mayor;
- (5) Conduct or participate in public hearings and other forums to determine views of the Latino community and other members of the public on matters affecting the health, safety, and welfare of the Latino community in the District of Columbia;
- (6) Bring to the attention of the Mayor and the Office on Latino Affairs cases of neglect, abuse, and incidents of bias against the Latino community in the administration of the laws of the District of Columbia;
- (7) Review and comment on proposed District and federal legislation, regulations, policies, and programs and make policy recommendations on issues affecting the health, safety, and welfare of the Latino community; and
- (8) Develop policy and provide continuing review of the planning undertaken by the Office.

(b) The Commission is authorized to make any reasonable request for information necessary to aid the Commission in the discharge of its responsibilities.

(Sept. 29, 1976, D.C. Law 1-86, title IV, § 410, 23 DCR 2543; Apr. 23, 1977, D.C. Law 1-126, title I, § 101, 24 DCR 2372.)

Prior Codifications. — 1981 Ed., § 1-2330.
1973 Ed., § 6-1930.

Legislative history of Law 1-86. — For legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Legislative history of Law 1-126. — Law 1-126 was introduced in Council and assigned Bill No. 1-364, which was referred to the Com-

mittee on Government Operations. The Bill was adopted on first and second readings on November 22, 1976 and December 7, 1976, respectively. Enacted without signature by the Mayor on January 25, 1977, it was assigned Act No. 1-225 and transmitted to both Houses of Congress for its review.

Subchapter V. Authorization.

§ 2-1341. Appropriation.

There is hereby authorized to be appropriated from the general operating budget of the District of Columbia the sum of \$200,000 to carry out the purpose of this chapter. This sum does not include monies spent on existing programs for the Latino community.

(Sept. 29, 1976, D.C. Law 1-86, title V, § 501, 23 DCR 2543.)

Prior Codifications. — 1981 Ed., § 1-2341. 1973 Ed., § 6-1941.
Legislative history of Law 1-86. — For

legislative history of D.C. Law 1-86, see Historical and Statutory Notes following § 2-1301.

Unit B. Bilingual Translation Services.

§ 2-1342. Spanish translations of District publications relating to health, safety and welfare. [Repealed].

Repealed.

(Oct. 26, 1977, D.C. Law 2-31, § 2, 24 DCR 3724; June 19, 2004, D.C. Law 15-167, § 8(b), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2342. 1973 Ed., § 6-1942.

Legislative history of Law 2-31. — Law 2-31 was introduced in Council and assigned Bill No. 2-116, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on July 12, 1977 and July 26, 1977, respectively.

Signed by the Mayor on August 16, 1977, it was assigned Act No. 2-77 and transmitted to both Houses of Congress for its review.

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1314.

Delegation of Authority. — Delegation of authority pursuant to Law 2-31, see Mayor's Order 86-67, May 2, 1986.

§ 2-1343. Spanish translations of agreements or contracts with District. [Repealed].

Repealed.

(Oct. 26, 1977, D.C. Law 2-31, § 3, 24 DCR 3724; June 19, 2004, D.C. Law 15-167, § 8(b), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2343. 1973 Ed., § 6-1943.

Legislative history of Law 2-31. — For legislative history of D.C. Law 2-31, see Historical and Statutory Notes following § 2-1342.

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1314.

§ 2-1344. Record of translations. [Repealed].

Repealed.

(Oct. 26, 1977, D.C. Law 2-31, § 4, 24 DCR 3724; June 19, 2004, D.C. Law 15-167, § 8(b), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2344. 1973 Ed., § 6-1944.

Legislative history of Law 2-31. — For legislative history of D.C. Law 2-31, see Historical and Statutory Notes following § 2-1342.

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1314.

§ 2-1345. Regulations to implement translation program. [Repealed].

Repealed.

(Oct. 26, 1977, D.C. Law 2-31, § 5, 24 DCR 3724; June 19, 2004, D.C. Law 15-167, § 8(b), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2345.
1973 Ed., § 6-1945.

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1314.

Legislative history of Law 2-31. — For legislative history of D.C. Law 2-31, see Historical and Statutory Notes following § 2-1342.

§ 2-1346. Appropriation for translation program. [Repealed].

Repealed.

(Oct. 26, 1977, D.C. Law 2-31, § 6, 24 DCR 3724; June 19, 2004, D.C. Law 15-167, § 8(b), 51 DCR 4688.)

Prior Codifications. — 1981 Ed., § 1-2346.
1973 Ed., § 6-1946.

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1314.

Legislative history of Law 2-31. — For legislative history of D.C. Law 2-31, see Historical and Statutory Notes following § 2-1342.

CHAPTER 13A. OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS.

Sec.

2-1371. Findings.

2-1372. Definitions.

2-1373. Establishment of the Office on Asian and Pacific Islander Affairs.

2-1374. Establishment of the Commission on Asian and Pacific Islander Community Development.

Sec.

2-1375. Translations of District publications relating to health, safety and welfare in Chinese, Vietnamese and Korean.

2-1376. Transition provisions.

§ 2-1371. Findings.

The Council finds that:

(1) On September 26, 1995, pursuant to Mayor's Order 95-119, the District of Columbia Commission on Asian and Pacific Islander Affairs ("Commission") was established to advise the Mayor and advocate for the interests of the Asian and Pacific Islander communities.

(2) The Commission has worked to:

(A) Improve the delivery of human services;

(B) Increase the number of Asians and Pacific Islanders serving on District of Columbia boards and commissions and working for the District of Columbia government;

(C) Promote positive relations between Asian and Pacific Islanders and other ethnic groups;

(D) Encourage and support economic development and the historical preservation of Chinatown; and

(E) Provide assistance and support to Asian small businesses.

(3) Since 1986, these communities have grown to include more than 17,000 Asians and Pacific Islanders.

(4) The growth of these communities gives rise to the need for a statutorily established office and commission to:

(A) Advise and assist the District of Columbia government in the development of governmental programs and initiatives to respond to the developing needs of these communities;

(B) Advocate for the needs of these communities;

(C) Serve as an official liaison between the District of Columbia government and these communities; and

(D) Ensure that the residents of these communities have access to necessary public services and facilities.

(Oct. 3, 2001, D.C. Law 14-28, § 302, 48 DCR 6981.)

Emergency legislation. — For temporary (90 day) addition of section, see § 302 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 14-28. — Law 14-28, the "Fiscal Year 2002 Budget Support Act of 2001", was introduced in Council and

assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

§ 2-1372. Definitions.

For the purposes of this chapter, the term:

(1) “Asian” or “Pacific Islander” means a person whose ancestry is of Asian or Pacific Islander heritage and who resides in the District of Columbia.

(2) “Commission” means the Commission on Asian and Pacific Islander Community Development established by § 2-1374.

(3) “Director” means the Executive Director of the Office on Asian and Pacific Islander Affairs.

(4) “Office” means the Office on Asian and Pacific Islander Affairs established by § 2-1373.

(5) “Services to the Asian and Pacific Islander Communities” means those services designed to provide assistance, including educational programs, health, financial and business assistance, employment and housing programs, public safety, recreational opportunities, community information, transportation services, and referral and counseling services.

(Oct. 3, 2001, D.C. Law 14-28, § 303, 48 DCR 6981.)

Emergency legislation. — For temporary (90 day) addition of section, see § 303 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 2-1371.

§ 2-1373. Establishment of the Office on Asian and Pacific Islander Affairs.

(a) There is established an Office on Asian and Pacific Islander Affairs (“Office”). The Office shall:

(1) Ensure that a full range of health, education, employment, and social services are available to the Asian and Pacific Islander communities in the District of Columbia; and

(2) Monitor service delivery and make recommendations to the Mayor and the Commission to promote the welfare of the Asian and Pacific Islander communities.

(b) The Office shall be headed by an Executive Director (“Director”), who shall be appointed by the Mayor with the advice and consent of the Council pursuant to § 1-523.01(f). The Director shall be a full-time position, for which annual compensation shall be fixed in accordance with subchapter X-A of Chapter 6 of Title 1. The Director shall have such staff as is approved in the District of Columbia appropriations and federal or private grants, and any temporary staff approved by the Office of Budget and Management Systems.

(c) To carry out the purpose of this chapter, the Director shall:

(1) Serve as an advocate for the Asian and Pacific Islander communities;

(2) Assist community organizations and the Commission in developing and submitting grant applications;

(3) Provide information and technical assistance on programs and services to the Asian and Pacific Islander communities to the Mayor, the

Commission, the Council, other District agencies and departments and the community;

(4) Respond to recommendations and policy statements from the Commission;

(5) File an annual report on the operation of the Office with the Mayor, the Council, and the Commission;

(6) Identify areas of need for service or service improvement and bring these areas to the attention of the Mayor and the Commission, with suggestions for meeting these needs, including conducting or funding research and demonstration projects to test the recommendations;

(7) Carry out the responsibility for assuring necessary control, evaluation, audit, and reporting on programs funded through the Office;

(8) Apply for, receive and expend any gifts or grants of money to carry out the duties and responsibilities of the Office in accordance with an act of Congress; and

(9) Issue grants to organizations that provide services to Asian and Pacific Islander residents of the District in furtherance of the mission of the Office or the purposes of this chapter.

(Oct. 3, 2001, D.C. Law 14-28, § 304, 48 DCR 6981; Sept. 14, 2011, D.C. Law 19-21, § 5012, 58 DCR 6226.)

Effect of amendments. — D.C. Law 19-21 deleted “and” from the end of par. (7), substituted “; and” for a period the end of par. (8), and added par. (9).

Emergency legislation. — For temporary (90 day) addition of section, see § 304 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 2-1371.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 2-308.15.

Short title. — Short title: Section 5011 of D.C. Law 19-21 provided that subtitle B of title V of the act may be cited as “Office of Asian and Pacific Islander Affairs Grant-Making Authority Amendment Act of 2011”.

§ 2-1374. Establishment of the Commission on Asian and Pacific Islander Community Development.

(a) There is hereby established a Commission on Asian and Pacific Islander Community Development (“Commission”) to advise the Mayor, the Council, the Director of the Office on Asian and Pacific Islander Affairs, and the public on the views and needs of the Asian and Pacific Islander communities in the District of Columbia.

(b) The Commission shall consist of 15 public voting members appointed by the Mayor, with the advice and consent of the Council, pursuant to § 1-523.01(f). There shall also be 11 ex-officio non-voting members, including the following Directors or their designees:

- (1) Department of Employment Services;
- (2) Department of Human Services;
- (3) Department of Health;
- (4) Department of Housing and Community Development;
- (5) Department of Public Works;

- (6) Department of Consumer and Regulatory Affairs;
- (7) Homeland Security and Emergency Management Agency;
- (8) Department of Parks and Recreation;
- (9) Superintendent of the Schools of the District of Columbia;
- (10) Chief of the Metropolitan Police Department; and
- (11) Chief of the Fire and Emergency Medical Services Department.

(c) The ex-officio members or their designees shall develop and implement policies and programs in their agencies that ensure that the purposes of this chapter are fulfilled. The ex-officio members or their designees shall meet with the Director quarterly, or more as needed, to assist the Director in coordinating plans and policies which are beneficial to the Asian and Pacific Islander communities of the District of Columbia.

(d) Voting members shall be appointed with due consideration for representation from established public, nonprofit, and volunteer community organizations concerned with the Asian and Pacific Islander communities and members of the general public who have given evidence of particular dedication to, and knowledge of the needs of the Asian and Pacific Islander communities.

(e)(1) Voting members of the Commission shall serve terms of 3 years except, that, of the initial members, 5 shall be appointed for a term of 3 years, 5 for a term of 2 years, and 5 for a term of one year. Members may be reappointed but may serve no more than 2 consecutive full terms.

(2) Terms for the initial Commission members shall begin on April 17, 2008, which shall become the anniversary date for all subsequent appointments.

(f) When a vacancy develops on the Commission, the Mayor shall appoint, with the advice and consent of the Council, a successor to fill the unexpired portion of the term, in accordance with § 1-523.01(f).

(g) The Mayor shall appoint the chairperson of the Commission.

(h) All members of the Commission shall serve without compensation. Expenses incurred by the Commission or by its individual members, when duly authorized by the Chairperson, shall become an obligation against appropriated District of Columbia and federal funds designated for that purpose.

(i) The Commission shall develop its own rules of procedure.

(j) The Commission shall meet at least every other month. The meetings shall be held in the District of Columbia and shall be open to the public. A quorum to transact business shall consist of a majority plus one of the voting members.

(k) The Commission shall:

(1) Serve as an advocate for Asian and Pacific Islander persons in the District of Columbia;

(2) Review and submit to the Mayor, the Council, the Office on Asian and Pacific Islander Affairs and make available to the public an annual report that includes an analysis of the needs of the Asian and Pacific Islander communities in the District of Columbia;

(3) Cooperate with federal, state and private agencies concerned with activities pertaining to the Asian and Pacific Islander communities;

(4) Conduct or participate in public hearings and other forums to determine views of the Asian and Pacific Islander communities and other members

of the public on matters affecting health, safety and welfare of the Asian and Pacific Islander communities in the District of Columbia;

(5) Bring to the attention of the Mayor and the Office cases of neglect, abuse and incidents of bias against members of the Asian and Pacific Islander communities in the administration of the laws of the District of Columbia;

(6) Review and comment on proposed District and federal legislation, regulations, policies and programs and make policy recommendations on issues affecting the health, safety, and welfare of the Asian and Pacific Islander communities;

(7) Develop policy and provide continuing review of the planning undertaken by the Office; and

(8) Make reasonable requests for information necessary to aid the Commission in the discharge of its responsibilities.

(Oct. 3, 2001, D.C. Law 14-28, § 305, 48 DCR 6981; Mar. 14, 2007, D.C. Law 16-262, § 403, 54 DCR 794; Mar. 25, 2009, D.C. Law 17-353, § 312(a), 56 DCR 1117.)

Effect of amendments. — D.C. Law 16-262, in subsec. (b), par. (7), substituted “Homeland Security and Emergency Management Agency” for “Emergency Management Agency”.

D.C. Law 17-353, in subsec. (e)(2), substituted “April 17, 2008” for “the date a majority of the members are sworn in”.

Emergency legislation. — For temporary (90 day) addition of section, see § 305 of Fiscal

Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 2-1371.

Legislative history of Law 16-262. — For Law 16-262, see notes following § 2-904.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

§ 2-1375. Translations of District publications relating to health, safety and welfare in Chinese, Vietnamese and Korean.

(a) The Mayor shall make available to persons whose primary language of communication is Chinese, Vietnamese, or Korean, a text version translated into these languages of any District of Columbia government published application, informational brochure or pamphlet which is essential to obtain services relating to the health, safety, and welfare of Asian or Pacific Islander residents of the District of Columbia. The Mayor shall by regulation designate, in consultation with the Commission, not later than 60 days after October 3, 2001, the applications, brochures, and pamphlets which shall be translated.

(b) The Mayor shall maintain a statistical record of the distribution and use of the materials that are distributed pursuant to subsection (a) of this section.

(c) The Mayor may issue regulations to implement subsection (a) of this section in accordance with the provisions of subchapter I of Chapter 5 of Title 2.

(Oct. 3, 2001, D.C. Law 14-28, § 306, 48 DCR 6981.)

Emergency legislation. — For temporary (90 day) addition of section, see § 306 of Fiscal

Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR

7861).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 2-1371.

§ 2-1376. Transition provisions.

(a) The Commission shall commence operations, and the Commission on Asian and Pacific Islander Affairs established pursuant to Mayor's Order 95-119 shall be abolished, on April 17, 2008. The members of the Commission on Asian and Pacific Islander Affairs established pursuant to Mayor's Order 95-119 shall hold over as members of the Commission until new members are appointed pursuant to § 2-1374.

(b) All records and functions of the Commission on Asian and Pacific Islander Affairs established pursuant to Mayor's Order 95-119 shall be transferred to the Commission on April 17, 2008.

(Oct. 3, 2001, D.C. Law 14-28, § 307, 48 DCR 6981; Mar. 25, 2009, D.C. Law 17-353, § 312(b), 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-353 rewrote the section.

Emergency legislation. — For temporary (90 day) addition of section, see § 307 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 2-1371.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

CHAPTER 13B. OFFICE OF GAY, LESBIAN, BISEXUAL, AND TRANSGENDER AFFAIRS.

Sec.

2-1381. Definitions.

2-1382. Establishment of the Office of Gay, Lesbian, Bisexual, and Transgender Affairs; Advisory Committee.

Sec.

2-1383. Appointment of Director; compensation; staff.

§ 2-1381. Definitions.

For the purposes of this chapter, the term:

(1) "Advisory Committee" means the Advisory Committee to the Office of Gay, Lesbian, Bisexual, and Transgender Affairs.

(2) "Gay, lesbian, bisexual, and transgender" means individuals who identify themselves as gay, lesbian, bisexual, or transgender and who are residents of the District of Columbia.

(3) "Office" means the Office of Gay, Lesbian, Bisexual and Transgender Affairs established in § 2-1382.

(Apr. 4, 2006, D.C. Law 16-89, § 2, 53 DCR 1084; Mar. 2, 2007, D.C. Law 16-191, § 122(a), 53 DCR 6794.)

Effect of amendments. — D.C. Law 16-191, in subsec. (1), validated a previously made technical correction.

Legislative history of Law 16-89. — Law 16-89, the "Office of Gay, Lesbian, Bisexual and Transgender Affairs Act of 2005", was introduced in Council and assigned Bill No. 16-235 which was referred to the Committee on Government Operations. The Bill was adopted on

first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 30, 2006, it was assigned Act No. 16-275 and transmitted to both Houses of Congress for its review. D.C. Law 16-89 became effective on April 4, 2006.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

§ 2-1382. Establishment of the Office of Gay, Lesbian, Bisexual, and Transgender Affairs; Advisory Committee.

(a) There is established within the Executive Office of the Mayor, the Office of Gay, Lesbian, Bisexual, and Transgender Affairs ("Office"). The Office shall administer such programs as shall be delegated to it by the Mayor and the Council to promote the welfare of the gay, lesbian, bisexual and transgender community.

(b) The Mayor shall establish an Advisory Committee, consisting of not more than 25 public members, whose members shall be representative of the diversity of people and ideas within the gay, lesbian, bisexual and transgender community. The Advisory Committee shall include, at a minimum, representation from gay, lesbian, bisexual and transgender community organizations representing health, social service, religious, and human rights issues and its members shall be representative of the diversity in the community with regard to socioeconomic status, religion, race, ethnicity, gender identification, age, and families. The Advisory Committee shall advise the Director and the Mayor on

issues relating to the gay, lesbian, bisexual and transgender community and on issues relating to the mission of the Office.

(Apr. 4, 2006, D.C. Law 16-89, § 3, 53 DCR 1084.)

Legislative history of Law 16-89. — For Law 16-89, see notes following § 2-1381.

§ 2-1383. Appointment of Director; compensation; staff.

(a)(1) The Office shall be administered by the Director, who shall be appointed by the Mayor. The Director shall devote his or her full-time [sic] to the duties of the Office. His or her annual compensation shall not be lower than a DS-15, step one, or equivalent compensation pursuant to §§ 1-610.51 through 1-610.63.

(2) The Office shall have 2 full-time employees, plus any temporary staff approved by the Office of Budget and Planning.

(b) The Director shall:

(1) Serve as an advocate for the gay, lesbian, bisexual and transgender community in the District of Columbia;

(2) Assist community organizations in developing and submitting grant applications;

(3) Provide information and technical assistance with respect to programs and services for the Gay, Lesbian, Bisexual and Transgender community to the Mayor, the Council, other District of Columbia agencies and departments, and the community;

(4) File an annual report on the operation of the Office with the Mayor and the Council;

(5) Identify areas of need for service or improvement of services and bring them to the attention of the Mayor, with suggestions for satisfying such needs, including conducting or funding research and demonstration projects to test the suggestions;

(6) Assure necessary control, evaluation, audit, and reporting on programs funded through the Office;

(7) Accept volunteer services and funds from the public and private sectors to supplement the budget in carrying out the planning duties and responsibilities of the Office;

(8) Meet with the Gay, Lesbian, Bisexual and Transgender Program Coordinators within each department and agency of the District government as a group, at least once a month to coordinate activities within the government involving the gay, lesbian, bisexual and transgender community;

(9) Meet with each department and agency director to establish a Gay, Lesbian, Bisexual and Transgender Coordinator; and

(10) Work with the Department of Health's Gay, Lesbian, Bisexual and Transgendered program coordinator to ensure that the Department's annual report on the status of gay, lesbian, bisexual and transgender health in the District of Columbia is comprehensive and receives an appropriate response.

(Apr. 4, 2006, D.C. Law 16-89, § 4, 53 DCR 1084; Mar. 2, 2007, D.C. Law 16-191, § 122(b), 53 DCR 6794.)

Effect of amendments. — D.C. Law 16-191, in subsec. (b)(9), validated a previously made technical correction.

Legislative history of Law 16-89. — For Law 16-89, see notes following § 2-1381.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

CHAPTER 13C. OFFICE AND COMMISSION ON AFRICAN AFFAIRS.

Sec.

2-1391. Establishment of the Office on African Affairs.

2-1392. Appointment of the Executive Director; staff; functions.

2-1393. Establishment of the Commission on African Affairs.

Sec.

2-1394. Commission organization; members; meetings.

2-1395. Functions of the Commission.

2-1396. [Repealed].

§ 2-1391. Establishment of the Office on African Affairs.

There is established an Office on African Affairs (“Office”). The Office shall ensure that a full range of health, education, employment, and social services are available to the African communities in the District, monitor service delivery to those communities, and make recommendations to the Mayor to promote the welfare of those communities.

(June 8, 2006, D.C. Law 16-111, § 2, 53 DCR 2532.)

Legislative history of Law 16-111. — Law 16-111, the “Office and Commission on African Affairs Act of 2006”, was introduced in Council and assigned Bill No. 16-430 which was referred to the Committee on Government Operations. The Bill was adopted on first and second

readings on February 7, 2006, and March 7, 2006, respectively. Signed by the Mayor on March 23, 2006, it was assigned Act No. 16-313 and transmitted to both Houses of Congress for its review. D.C. Law 16-111 became effective on June 8, 2006.

§ 2-1392. Appointment of the Executive Director; staff; functions.

(a) The Office shall be headed by an Executive Director (“Director”) who shall be appointed by the Mayor with the advice and consent of the Council. The Director shall be a full-time position, for which annual compensation shall be fixed in accordance with subchapter X-A of Chapter 6 of Title 1.

(b) The Office shall have staff as approved by appropriations and federal or private grants.

(c) The Director shall:

(1) Serve as an advocate for African communities in the District;

(2) Assist community organizations in developing and submitting grant applications;

(3) Provide information and technical assistance on programs and services to the African communities to the Mayor, the Council, other District agencies and departments, and the community;

(4) Respond to recommendations and policy statements from the Commission on African Affairs (“Commission”);

(5) File an annual report on the operations of the Office with the Mayor and the Council;

(6) Identify areas for service improvement and bring these areas to the attention of the Mayor and the Commission, with recommendations for meeting these needs, including conducting or funding research and demonstration projects to test the recommendations;

(7) Ensure the necessary control, evaluation, audit, and reporting on programs funded through the Office;

(8) Accept volunteer services and funds from the public and private sectors to supplement the budget of the Office in carrying out its planning duties and responsibilities; and

(9) Apply for, receive, and expend gifts or grants of money to carry out the duties and responsibilities of the Office.

(June 8, 2006, D.C. Law 16-111, § 3, 53 DCR 2532.)

Legislative history of Law 16-111. — For Law 16-111, see notes following § 2-1391.

§ 2-1393. Establishment of the Commission on African Affairs.

There is established a Commission on African Affairs ("Commission") to advise the Mayor, the Council, the Director of the Office on African Affairs, and the public on the views and needs of the African communities in the District.

(June 8, 2006, D.C. Law 16-111, § 4, 53 DCR 2532.)

Legislative history of Law 16-111. — For Law 16-111, see notes following § 2-1391.

§ 2-1394. Commission organization; members; meetings.

(a) The Commission shall consist of 15 public voting members appointed by the Mayor, with the advice and consent of the Council. Members shall be appointed with due consideration for representation from established public, nonprofit, and volunteer community organizations concerned with the African communities, and members of the public who have shown dedication to and knowledge of the needs of the African communities.

(b) Voting members shall serve terms of 3 years; except, that of the initial members, 5 shall be appointed for a term of 3 years, 5 shall be appointed for a term of 2 years, and 5 shall be appointed for a term of one year. Members may be reappointed, but may serve no more than 2 consecutive full terms. Terms for the initial Commission members shall begin on the date a majority of the members are sworn in, which shall become the anniversary date for all subsequent appointments. When a vacancy develops on the Commission, the Mayor shall appoint, with the advice and consent of the Council, a successor to fill the unexpired portion of the term.

(c) There shall be 11 ex-officio nonvoting members, including the following Directors or their designees:

- (1) Department of Employment Services;
- (2) Department of Human Services;
- (3) Department of Health;
- (4) Department of Housing and Community Development;
- (5) Department of Public Works;
- (6) Department of Consumer and Regulatory Affairs;

- (7) Emergency Management Agency;
- (8) Department of Parks and Recreation;
- (9) Superintendent of Education of the District of Columbia;
- (10) Chief of the Metropolitan Police Department; and
- (11) Chief of the Fire and Emergency Medical Services Department.

(d) Ex-officio members shall develop and implement policies and programs in their agencies to ensure that the purposes of this chapter are fulfilled. They shall meet with the Director at least quarterly each year to assist the Director in coordinating plans and policies which are beneficial to the African communities of the District.

(e) The Mayor shall appoint the chairperson of the Commission from among the voting members. All members shall serve without compensation. Expenses incurred by the Commission or its members shall be authorized by the Chairperson and become an obligation against District appropriations and other federal funds designated for that purpose.

(f) The Commission shall develop its own rules of procedure.

(g) The Commission shall meet at least every other month. The meetings shall be held in the District and shall be open to the public. A quorum to transact business shall consist of a majority plus one of the voting members.

(June 8, 2006, D.C. Law 16-111, § 5, 53 DCR 2532; Mar. 25, 2009, D.C. Law 17-353, § 104, 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-353 validated a previously made technical correction in subsec. (d).

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 16-111. — For Law 16-111, see notes following § 2-1391.

§ 2-1395. Functions of the Commission.

The Commission shall:

- (a) Serve as an advocate for African persons in the District;
- (b) Review and submit to the Mayor, the Council, and the Office, and make available to the public, an annual report that includes an analysis of the needs of the African communities in the District;
- (c) Cooperate with federal, state and private agencies concerned with activities pertaining to the African communities;
- (d) Conduct or participate in public hearings and other forums to determine views of the African communities and other members of the public on matters affecting health, safety and welfare of those communities;
- (e) Bring to the attention of the Mayor and the Office cases of neglect, abuse and incidents of bias against members of the African communities in the administration of District and federal laws;
- (f) Review and comment on proposed District and federal legislation, regulations, policies, and programs and make policy recommendations on issues affecting the health, safety, and welfare of the African communities;
- (g) Develop policy and provide continuing review of the planning undertaken by the Office; and

(h) Make reasonable requests for information necessary to aid the Commission in the discharge of its responsibilities.

(June 8, 2006, D.C. Law 16-111, § 6, 53 DCR 2532.)

Temporary Addition of Section. — For temporary (225 day) addition, see § 6a of Office and Commission on African Affairs Clarification Temporary Amendment Act of 2006 (D.C. Law 16-215, March 6, 2007, law notification 54 DCR 2762).

Section 3 of D.C. Law 16-215 added a section to read as follows:

“Sec. 6a. Transition provisions.

“(a) The Mayor’s Advisory Commission on African Community Affairs, established pursuant to Mayor’s Order 2003-114, dated August 11, 2003, shall be abolished as of the earlier of the following dates:

“(1) The date that a majority of the 15 public members of the Commission on African Affairs are sworn in; or

“(2) December 31, 2006.

“(b) All records of the Mayor’s Advisory Commission on African Community Affairs, estab-

lished pursuant to Mayor’s Order 2003-114, dated August 11, 2003, shall be transferred to the Commission on African Affairs, as of the date established in subsection (a) of this section.”

Section 5(b) of D.C. Law 16-215 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 3 of Office and Commission on African Affairs Clarification Emergency Amendment Act of 2006 (D.C. Act 16-501, October 23, 2006, 53 DCR 9051).

For temporary (90 day) addition, see § 3 of Office and Commission on African Affairs Clarification Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-5, January 16, 2007, 54 DCR 1448).

Legislative history of Law 16-111. — For Law 16-111, see notes following § 2-1391.

§ 2-1396. Applicability. [Repealed].

Repealed.

(June 8, 2006, D.C. Law 16-111, § 7, 53 DCR 2532; Aug. 16, 2008, D.C. Law 17-219, § 7074, 55 DCR 7598.)

Cross references. — Elections, initiative and referendum, see § 1-1101.16.

Government pay equity and training, “equitable job-evaluation technique” and “protected classes” defined, see § 32-601.

Health care benefits expansion, limitations of law, see § 32-710.

Health occupations, advanced registered nurses, collaboration with licensed health care providers, see § 3-1206.03.

Health occupations, revocation, suspension, or denial of license, civil penalties, see § 3-1205.14.

Licensure, non-health related occupations, revocation, suspension, or denial of license, civil penalties, see § 47-2853.17.

Motor vehicles, no-fault insurance, cancellation, prohibited discrimination, see § 31-2409.

Real estate broker, salespersons, and property managers; licensure, prohibited acts, see § 47-2853.197.

Administration, merit system, attorneys employed by District, residency requirement, see § 1-608.59.

Administration, merit system, career service, career service positions, hiring preference for residents, see § 1-608.01.

Administration, merit system, continuation of existing laws, see § 1-632.06.

Administration, merit system, educational service, hiring preference for residents, see § 1-608.01a.

Administration, merit system, employment in or appointment to excepted service, residency requirement, see § 1-609.06.

Cable operator, employment discrimination prohibited, see § 34-1262.01.

Legislative history of Law 16-111. — For Law 16-111, see notes following § 2-1391.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

HUMAN RIGHTS

CHAPTER 14. HUMAN RIGHTS.

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Unit A. Human Rights Law.

Subchapter I. General Provisions.

§ 2-1401.01. Intent of Council.

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

(Dec. 13, 1977, D.C. Law 2-38, title I, § 101, 24 DCR 6038; June 28, 1994, D.C. Law 10-129, § 2(a), 41 DCR 2583; Apr. 20, 1999, D.C. Law 12-242, § 2(a), 46 DCR 952; Apr. 5, 2005, D.C. Law 15-263, § 2(a), 52 DCR 237; Mar. 8, 2006, D.C. Law 16-58, § 2(a), 53 DCR 14; Mar. 14, 2007, D.C. Law 16-273, § 3(a), 54 DCR 859.)

Section references. — This section is referred to in §§ 1-608.01, 1-608.01a, 1-608.59, 1-632.06, 2-1403.01, 47-2853.17, and 47-2853.197.

Prior Codifications. — 1981 Ed., § 1-2501. 1973 Ed., § 6-2201.

Effect of amendments. — D.C. Law 15-263 substituted “genetic information, disability,” for “disability.”

D.C. Law 16-58 substituted “sexual orientation, gender identity or expression,” for “sexual orientation.”

D.C. Law 16-273 inserted “status as a victim of an intrafamily offense,” following “source of income.”

Legislative history of Law 2-38. — Law 2-38 was introduced in Council and assigned Bill No. 2-179, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 26, 1977 and September 13, 1977, respectively. Signed by the Mayor on

September 28, 1977, it was assigned Act No. 2-83 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-129. — Law 10-129, the “Human Rights Amendment Act 1994,” was introduced in Council and assigned Bill No. 10-298, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 28, 1994, it was assigned Act No. 10-228 and transmitted to both Houses of Congress for its review. D.C. Law 10-129 became effective on June 28, 1994.

Legislative history of Law 12-242. — Law 12-242, the “Human Rights Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-690, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998,

respectively. Signed by the Mayor on December 23, 1998, it was assigned Act No. 12-575 and transmitted to both Houses of Congress for its review. D.C. Law 12-242 became effective on April 20, 1999.

Legislative history of Law 15-263. — Law 15-263, the “Human Rights Genetic Information Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-52, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on January 3, 2005, it was assigned Act No. 15-648 and transmitted to both Houses of Congress for its review. D.C. Law 15-263 became effective on April 5, 2005.

Legislative history of Law 16-58. — Law 16-58, the “Human Rights Clarification Amendment Act of 2005”, was introduced in Council and assigned Bill No. 16-389 which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 1, 2005, and December 6, 2005, respectively. Signed by the Mayor on December 22, 2005, it was assigned Act No. 16-220 and transmitted to both Houses of Congress for its review. D.C. Law 16-58 became effective on March 8, 2006.

Legislative history of Law 16-273. — Law 16-273, the “Protection from Discriminatory Eviction for Victims of Domestic Violence Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-703, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was as-

signed Act No. 16-629 and transmitted to both Houses of Congress for its review. D.C. Law 16-273 became effective on March 14, 2007.

Repeal of Law 12-138. — Section 153 of Pub. L. 105-277, 112 Stat. 2681-146, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, provided that D.C. Law 12-138 is repealed October 21, 1998.

Mayor's Orders. — Establishment of Department of Human Rights and Minority Business Development: See Mayor's Order 89-247, November 1, 1989.

Uniform Language in D.C. Government Anti-Discrimination Issuances and Equal Employment Opportunity Notices, see Mayor's Order 2002-149, September 13, 2002 (49 DCR 8613).

Amendment of M.O. 2002-149, dated 8-26-02 — Uniform Language in D.C. Government Anti-Discrimination Issuances and Equal Employment Opportunity Notices, see Mayor's Order 2002-175, November 1, 2002 (49 DCR 9883).

Sexual Harassment, see Mayor's Order 2004-171, October 20, 2004 (51 DCR 10486).

Amendment of Mayor's Order 2002-175, dated October 23, 2002 Uniform Language in D.C. Government Anti-Discrimination Issuances and Equal Employment Opportunity Notices, see Mayor's Order 2006-151, November 6, 2006 (53 DCR 9351).

Editor's notes. — Residency requirement for District employees: Section 2 of D.C. Law 12-138, repealed by § 153 of Pub. L. 105-277, had amended §§ 1-608.1 and 1-609.1 1-608.01 and 1-608.01a, 2001 Ed., and enacted § 1-607.51, to require newly-hired District employees in the Career Service, Excepted Service, and Educational Service to establish and maintain residency in the District within 180 days of being hired, and to allow the Mayor to exempt hard to fill positions from the requirements of the act.

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Admissibility of evidence.

Relevance of employee's disability benefits application, in her action against employer for disability discrimination under District of Columbia law, to employer's alternative theories that employee was unable to do job even with accommodation, and that employee never actually requested accommodation, was not outweighed by any potential prejudice. D.C. Code 1981, § 1-2501 et seq.; Fed.Rules Evid.Rule 403, 18 U.S.C. Whitbeck v. Vital Signs, 159 F.3d 1369, 1998 U.S. App. LEXIS 29489 (C.A.D.C. 1998).

Alleged information provided by unknown person to discharged District of Columbia Office of Property Management (OPM) employee that both positions at OPM for which employee had applied had been "filled with other candidates" was inadmissible hearsay, and thus district court would not consider that statement on summary judgment in employee's retaliation action under District of Columbia Human Rights Act (DCHRA). Francis v. District of Columbia, 731 F.Supp.2d 56, 2010 U.S. Dist. LEXIS 137113 (2010).

Although trial court believed that admission of evidence of rumors regarding sexual orientation of employee's supervisor and co-workers was necessary for purposes of employee's claim of retaliation under Human Rights Act, it would have been preferable not to disclose in published opinion the names of women who were subjects of that innuendo. D.C. Code 1981, § 1-2525(b). Howard Univ. v. Green, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Arbitration.

Claims arising under Title VII, the District of

Columbia Human Rights Act (DCHRA), and the common law may be subject to arbitration. Hughes v. CACI, Inc. -- Commercial, 384 F.Supp.2d 89, 2005 U.S. Dist. LEXIS 16047 (2005).

Attorney fees.

Employee who prevailed in employment discrimination action could recover attorney fees incurred in connection with preparation of motion to compel, even though it was unsuccessful per se, as it was motion which had to be litigated, and motion succeeded in protecting litigant's interests. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. Martini v. Fannie Mae, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Employee who prevailed in employment discrimination action could recover attorney fee for time spent preparing amended complaint and motion for leave to file amended complaint; it was not unreasonable for employee to assert Title VII claims before she was eligible to assert claims under D.C. Human Rights Act. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. Martini v. Fannie Mae, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Employee who prevailed in employment discrimination action could recover attorney fee for both attorneys present at depositions, even though only one attorney took or defended deposition, where opposing party was represented at depositions by three attorneys. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. Martini v. Fannie Mae, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Attorney failed to demonstrate established billing history entitling him to recover attorney fees at rate of \$400 per hour under the District of Columbia's Human Rights Act, where those clients who paid him \$400 per hour did so only after he promised that total bill would be no more than a fixed sum, and other evidence of billing either involved small and isolated incidents or involved billing that was too recent to be subject to discovery. D.C. Code 1981, § 1-2501 et seq. Shepherd v. American Broadcasting Cos., 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Appropriate hourly rate for attorney fee award under District of Columbia's Human Rights Act, for attorney who lacked established billing history, was \$305, based on prevailing market rates as determined through use of United States Attorney's Office matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney fees would be awarded at current rates for entire period of litigation under District of Columbia's Human Rights Act to compensate for six-year delay in payment. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney did not have established billing rate of \$150 per hour as claimed, and instead fees would be awarded pursuant to attorney fee matrix at rate of \$250 per hour in suit under District of Columbia's Human Rights Act, despite her public interest service and limited billings made. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney would be awarded compensation for his performance of administrative tasks at rate of \$80 per hour, rather than at rate of \$60 per hour, in suit under District of Columbia's Human Rights Act, where \$80 rate was awarded in another recent case and defendant did not state in opposition why \$60 rate was more appropriate. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

In awarding attorney fees under District of Columbia's Human Rights Act, district court would reduce claimed hours by 10% to reflect insufficient detail of some of counsel's records and conflicting and contradictory nature of some fee requests. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fee applicants are entitled to reasonable attorney fees expended pursuing fee award under the District of Columbia's Human Rights Act, which includes fees expended not only in preparing reply on fee issue, but in preparing fee application and supplemental reply. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Lawyer's experience as salaried employee in public interest offices were to be taken into consideration in determining prevailing market rates for her services through use of attorney fee matrix, in suit under District of Columbia's Human Rights Act, absent any evidence that her public interest work commanded different salaries than those charged on matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v.*

American Broadcasting Cos., 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

District of Columbia Human Rights Act does not require courts to award reasonable attorney fees to prevailing parties, but rather, confirms court's discretionary authority over attorney fee applications. D.C. Code 1981, §§ 1-2501 et seq., 1-2553, 1-2553(a)(1), 1-2556, 1-2556(b). *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Requested attorney fee award of approximately \$246,000 had to be reduced by three-fourths in employment discrimination action in which jury found for employee on claim under District of Columbia Human Rights Act, but court found for defendants on three remaining claims under § 1981 and Title VII; employee recovered only \$2,000 damages against four defendants and suit was essentially a private one. 42 U.S.C. §§ 1981, 1985(3); Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Attorneys for employee who prevailed in employment discrimination action were only entitled to \$1,000 for work and \$1,500 for expenses in preparing fee application, rather than \$16,808 in fees and \$2,177 in expenses; employee had only recovered \$2,000 on one of four claims and employee's time for appeal had lapsed. D.C. Code 1981, § 1-2501 et seq. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Burden of proof.

The burden-shifting analysis of *McDonnell Douglas Corp. v. Green* is applicable to claims under the District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Employer was not liable for race or sex discrimination under D.C. Human Rights Act since it met its burden of producing legitimate, nonpretextual, non-discriminatory reasons for disciplining African American male employee and terminating his employment for multiple infractions of workplace rules. *Grandison v. Wackenhut Servs.*, 585 F.Supp.2d 72, 2008 U.S. Dist. LEXIS 92719 (2008).

Where employee has proffered no direct evidence of intentional discrimination, race discrimination claims under both District of Columbia Human Rights Act (DCHRA) and §§ 1981 are evaluated using *McDonnell Douglas* analytical framework. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by

241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

Under McDonnell Douglas burden-shifting framework, employee has initial burden of demonstrating by a preponderance of the evidence a prima facie case of discrimination, and if she succeeds, burden shifts to employer to articulate some legitimate, nondiscriminatory reason for employment action being challenged; employer need not persuade the court that it was actually motivated by the proffered reasons, but rather must clearly set forth, through the introduction of admissible evidence, reasons for its actions which, if believed by the trier of fact, would support a finding that unlawful discrimination was not the cause of the employment action. *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

Discrimination claims brought under Title VII, §§ 1981, the ADEA, the ADA and the DCHRA are governed by the McDonnell Douglas burden-shifting framework. *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

In employment context, proof required to support claim for intentional infliction of emotional distress under District of Columbia law is particularly demanding. *Thompson v. Jasas Corp.*, 212 F.Supp.2d 21, 2002 U.S. Dist. LEXIS 13266 (2002).

Filipino former employee claiming that she was discharged on the basis of race and national origin failed to rebut her employer's asserted legitimate non-discriminatory reason for terminating her from her position as an infection control (IC) practitioner and employee health (EH) nurse; employer asserted that the employee's job performance was marked by persistent performance deficiencies, and specifically that she utterly failed in meeting her primary responsibility of helping to prepare the hospital for a regulatory review, and the employee presented no direct evidence that she was discriminated against. *Jose v. Hospital for Sick Children*, 130 F.Supp.2d 38, 2000 U.S. Dist. LEXIS 20216 (2000).

Under District of Columbia Human Rights Act (DCHRA), plaintiff must first establish prima facie case, then defendant has burden of articulating legitimate nondiscriminatory reason for its actions, and ultimately plaintiff must show that legitimate nondiscriminatory reason was pretext and that employer had discriminatory intent. D.C. Code 1981, § 1-2501 et seq. *Pendarvis v. Xerox Corp.*, 3 F.Supp.2d 53, 1998 U.S. Dist. LEXIS 6481 (1998).

Once plaintiff has established prima facie case of retaliatory discharge under District of Columbia Human Rights Act (DCHRA) and § 1981, burden of proof shifts to employer to articulate nondiscriminatory reason for its ac-

tions; plaintiff then has opportunity to show that employer's reasons are pretextual. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Pendarvis v. Xerox Corp.*, 3 F.Supp.2d 53, 1998 U.S. Dist. LEXIS 6481 (1998).

In remedial state of collective pattern or practice employment discrimination action, defendant bears not only burden of production but also burden of persuading trier of fact that it is more likely than not that employer did not unlawfully discriminate against individual. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Employer in liability stage of collective pattern or practice age discrimination action may challenge plaintiffs' proof through cross-examination and presentation of rebuttal evidence in effort to show that plaintiffs' proof is either inaccurate or insignificant, but throughout liability stage of proceedings, plaintiffs retain burden of persuasion as to establishing prima facie case of pattern or practice age discrimination. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Former employee's sex discrimination claim under District of Columbia Human Rights Act (DCHRA) was governed by McDonnell Douglas burden shifting test. D.C. Code 1981, § 1-2501 et seq. *Schwartz v. Paralyzed Veterans of Am.*, 930 F. Supp. 3, 1996 U.S. Dist. LEXIS 9045 (1996).

Once former employee made out a prima facie case of employment discrimination in his termination, under Civil Rights Act of 1964, § 1981, or the District of Columbia Human Rights Act, defendants would have burden of articulating a legitimate, nondiscriminatory reason for decision to fire employee, and should defendants carry this burden, employee must have opportunity to prove, by preponderance of the evidence, that asserted reasons were not the true reasons for defendants' action but merely pretext for discrimination. D.C. Code 1981, § 1-2501 et seq.; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981. *Gomez v. Trustees of Harvard University*, 677 F. Supp. 23, 1988 U.S. Dist. LEXIS 648 (1988).

Under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., plaintiff's burden of demonstrating that articulated reason for discharge was pretextual merges with ultimate burden of proving intentional discrimination or retaliation, and in final analysis fact finder must decide whether defendants intentionally discriminated or retaliated against plaintiff. *Thompson v. International*

Asso. of Machinists & Aerospace Workers, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Once plaintiff has established prima facie case of discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., burden of production shifts to defendants to articulate a legitimate nondiscriminatory reason for plaintiff's discharge, and if defendant's carry that burden, prima facie case is rebutted and burden shifts back to plaintiff to prove by preponderance of evidence that articulated reason was pretextual. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

In a sex discrimination case brought under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., plaintiff must carry initial burden of establishing prima facie case of discrimination by showing that plaintiff belongs to protected group, was qualified for position, was terminated, and that others not in protected class were treated differently. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

If, after a prima facie case is established, the employer offers a legitimate reason for the employment action challenged by an employee under the District of Columbia Human Rights Act (DCHRA), the presumption of illegality drops out of the case, and the employee has the burden of proving by a preponderance of the evidence that the stated reason is pretextual and that the adverse personnel action was indeed retaliatory. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To prove sexual harassment under District of Columbia Human Rights Act (DCHRA), more than a few isolated incidents must have occurred, and genuinely trivial occurrences will not establish a prima facie case; however, no specific number of incidents, and no specific level of egregiousness, can be set forth, nor is the fact that each incident may not be individually actionable determinative, and instead, the trier of fact must consider the totality of the circumstances. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

To establish a prima facie case of sexual harassment under District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate that: (1) she is a member of a protected class; (2) she has been subject to unwelcome sexual harassment; (3) the harassment complained of was based on sex; (4) the harassment complained of affected a term, condition, or

privilege of employment; (5) respondeat superior. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

To prove sex or gender discrimination under the District of Columbia Human Rights Act (DCHRA), plaintiff is required, initially, to make a prima facie showing of discrimination by a preponderance of the evidence. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Once employer, at second step of McDonnell Douglas burden-shifting analysis applied in employment discrimination cases under District of Columbia Human Rights Act (DCHRA), presents non-discriminatory reason for employment decision, the employee, at third step, must show both that the reason was false and that discrimination was the real reason. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

In order to set forth a prima facie case of discriminatory hiring, a plaintiff has to satisfy a four-part test by showing: (1) that she belonged to a protected class; (2) that she was qualified for the position she applied for; (3) that her failure to be hired occurred despite her employment qualifications; and (4) that the decision not to hire her was based on the characteristic that placed her in the protected class. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

In considering claims brought under the District of Columbia Human Rights Act (DCHRA), court relies on the same three-part, burden-shifting test used in Title VII cases. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American employee's unsatisfactory job performance as manager of federal credit union, as demonstrated in her performance evaluation and examination report of the National Credit Union Administration (NCUA), provided credit union with legitimate, nondiscriminatory reason for demoting employee, and thus burden shifted to employee to show that such proffered reason was pretext for race or age discrimination in violation of the District of Columbia Human Rights Act (DCHRA), even though employee's performance evaluation occurred after only ten months and allegedly did not give employee sufficient time to incorporate her management training. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American employee's loss of bond coverage, after she used her corporate credit card for personal purchases, provided federal credit union with legitimate, nondiscriminatory reason for terminating employee, and thus burden shifted to employee to show that such proffered reason was pretext for race or age discrimination in violation of the District of Columbia Human Rights Act (DCHRA). *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under the burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), the burden of showing that the employer's justification for an employment action was merely a pretext for discrimination merges with the employee's ultimate burden of persuasion on the question of intentional discrimination. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under the burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), after employer articulates legitimate, nondiscriminatory reason for the challenged employment action, the employee must show both that the legitimate nondiscriminatory reason was false, and that discrimination was the real reason. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

To come within the District of Columbia Human Rights Act's protection, a complainant must first prove that he or she has a disability for which reasonable accommodation can be made. *Woodland v. Dist. Council 20*, 777 A.2d 795, 2001 D.C. App. LEXIS 148 (2001).

In considering claims under District of Columbia Human Rights Act (DCHRA), court employs same three-part, burden-shifting test articulated for Title VII cases in *McDonnell Douglas*: (1) burden is initially on employee to make prima facie showing of discrimination by preponderance of evidence; (2) once presumption is raised, burden shifts to employer to rebut it by articulating legitimate, nondiscriminatory reason for adverse action; and (3) burden shifts back to employee to prove that employer's stated reason is pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Burden is initially on employee to make prima facie showing of employment discrimination by preponderance of the evidence, and prima facie showing, when made, raises rebuttable presumption that employer's conduct amounted to unlawful discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer articulates legitimate, non-discriminatory reason for adverse employment action, burden shifts back to employee to prove, by preponderance of the evidence, that employ-

er's stated justification for its action is not its true reason, but is in fact merely pretext to disguise discriminatory practice, and this burden merges with ultimate burden of persuasion on the question of intentional discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Since employer presented legitimate, nondiscriminatory reason for terminating employee, burden shifted to employee to establish that employer's proffered reason was pretext for discrimination, either directly by proving that discriminatory reason more likely motivated employer or indirectly by showing that employer's proffered explanation was unworthy of credence, and this burden merged with employee's ultimate burden of persuasion on the question of intentional discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

When employment discrimination plaintiff proves a case of discrimination by direct evidence, application of *McDonnell Douglas* is inappropriate; rather, cases involving direct evidence of discrimination are analyzed under the mixed motives analysis articulated in *Price Waterhouse*. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Price Waterhouse's mixed motives analysis requires employee to show that discrimination was motivating factor for employment practice, even though other factors also motivated the practice; in other words, employee must present evidence of conduct or statements by persons involved in decisionmaking process that may be viewed as directly reflecting alleged discriminatory attitude sufficient to permit factfinder to infer that that attitude was more likely than not motivating factor in employer's termination decision. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

One could not infer from racial comments heard by coemployees that discrimination was factor in employee's discharge since they were not directed at employee and were not made by decisionmakers in a context related to the decisionmaking process, and even if they did constitute some evidence of discrimination, they did not get employee over the high hurdle of establishing a mixed motives racial discrimination claim. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

An employee alleging violation of District of Columbia Human Rights Act must first make prima facie showing of discrimination by preponderance of evidence, after which burden shifts to employer to rebut presumption by articulating some legitimate, nondiscriminatory reason for employment action at issue; if employer articulates such reason, burden shifts back to employee to prove by preponderance of evidence that employer's stated justification for

its action was mere pretext to disguise discriminatory practice. D.C. Code 1981, § 1-2501 et seq. *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Employer articulated legitimate, nondiscriminatory reason for promoting male candidate rather than plaintiff, thus placing burden on plaintiff to establish that those reasons were merely pretext for discrimination on the basis of sex; employer indicated that male candidate was promoted because he was more qualified based on five-point assessment model, and that male candidate was ranked at the top of the list while plaintiff was ranked at the bottom of the list. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Complainant in discriminatory discharge action has initial burden to present evidence demonstrating amount of her damages; once that evidence has been presented, burden shifts to defendant to establish amount by which those damages should be reduced to reflect complainant's interim earnings or to show her failure to take reasonable efforts to mitigate her damages by finding alternative employment. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Employee must be afforded fair opportunity to prove by preponderance of evidence that employer's stated reason for employment action at issue was not its true reason but was in fact merely a pretext for discrimination; this burden merges with ultimate burden of persuasion on question of intentional discrimination, and employee may meet this burden either directly by persuading trier of fact that discriminatory reason more likely motivated employer or indirectly by showing that employer's proffered explanation is unworthy of credence. D.C. Code 1981, § 1-2501 et seq. *Atlantic Richfield Co. v. District of Columbia Com. on Human Rights*, 515 A.2d 1095, 1986 D.C. App. LEXIS 433 (1986).

Employee's establishment of prima facie case of discrimination creates rebuttable presumption that employer unlawfully discriminated against employee, and burden shifts to employer to rebut presumption by articulating some legitimate, nondiscriminatory reason for employment action at issue; employer need not prove by preponderance of evidence that it was actually motivated by proffered justification, but rather, may satisfy burden by producing admissible evidence from which trier of fact could rationally conclude that employment action had not been motivated by discriminatory animus. D.C. Code 1981, § 1-2501 et seq. *Atlantic Richfield Co. v. District of Columbia Com. on Human Rights*, 515 A.2d 1095, 1986 D.C. App. LEXIS 433 (1986).

Employee bears burden establishing by preponderance of evidence a prima facie case of discrimination. D.C. Code 1981, § 1-2501 et seq. *Atlantic Richfield Co. v. District of Columbia Com. on Human Rights*, 515 A.2d 1095, 1986 D.C. App. LEXIS 433 (1986).

Defendant employer's burden at the second stage of the proof of a disparate treatment case is only to produce admissible evidence which would allow the trier of fact rationally to conclude that the employment decision had not been motivated by discriminatory animus. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Employee in disparate treatment action brought against employer under the Human Rights Act always retains the ultimate burden of persuading the court or agency that she has been a victim of intentional discrimination. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Defendant employer in disparate treatment suit brought under the Human Rights Act need not persuade the fact finder that the proffered nondiscriminatory reason for the employment action was the actual motivation for the employment action as the employer need only raise a genuine issue of fact as to whether it discriminated against the employee. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Employee's burden in disparate treatment action brought under the Human Rights Act to prove by preponderance of the evidence a prima facie case of discrimination by employer is not onerous. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Plaintiff's initial burden of proof in a case of sexual harassment involves introduction of sufficient evidence from which trier of fact could, viewing the evidence in light most favorable to the plaintiff, find the necessary elements of the plaintiff's case. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

In an action alleging sexual harassment, defendant's burden is a burden of production, that is, the defendant must produce admissible evidence which would allow trier of fact rationally to conclude that the defense has been established and the plaintiff's prima facie case rebutted; ultimate burden of proof remains with the plaintiff. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

The employee alleging disparate treatment in a discriminatory employment case carries the initial burden of proving by the preponderance of the evidence a prima facie case of discrimination and, once that burden is met, a presumption is created that the employer unlawfully discriminated against the employee, whereupon the burden shifts to the employer to articulate some legitimate, nondiscriminatory reason for the action. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

An employer accused of disparate treatment in a discriminatory employment case is not required to prove by a preponderance of the evidence the existence of a nondiscriminatory reason for the action, but need only produce admissible evidence which would allow the trier of fact rationally to conclude that the employment decision was not motivated by discriminatory animus. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

If an employer charged with disparate treatment in a discriminatory employment case produces admissible evidence which would allow the trier of fact rationally to conclude that the employment decision was not motivated by discriminatory animus, the employee must then be given an opportunity to prove that the stated reason for the discharge was a pretext, a burden which merges with the ultimate burden of persuasion placed upon the employee at all times. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

Causal nexus.

Period of over one year between discharged District of Columbia Office of Property Management (OPM) employee's protected Equal Employment Opportunity (EEO) activity and his non-selection for position as risk management coordinator with OPM was too great to permit temporal proximity alone to establish causal connection element of prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA). *Francis v. District of Columbia*, 731 F.Supp.2d 56, 2010 U.S. Dist. LEXIS 137113 (2010).

On-duty police officers who arrived at scene of altercation between Lebanese nightclub patron and off-duty police officers were unaware of discriminatory conduct by off-duty police officer, and thus patron could not allege causal nexus required to state prima facie case for retaliation or interference under District of

Columbia Human Rights Act (DCHRA) against on-duty officers. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

To demonstrate the requisite causal nexus required to state prima facie claim for retaliation or interference under the District of Columbia Human Rights Act (DCHRA), a plaintiff must prove that the defendant had awareness of the supposed protected activity. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Causation, generally.

While causation under D.C. Human Rights Act may be inferred from a close temporal proximity between employee's protected activity and the employer's adverse employment action, that inference can be rebutted by evidence that the employer was motivated by a legitimate, non-retaliatory reason. *Grandison v. Wackenhut Servs.*, 585 F.Supp.2d 72, 2008 U.S. Dist. LEXIS 92719 (2008).

Construction and application.

Title VII and District of Columbia Human Rights Act (DCHRA) discrimination claims are assessed pursuant to three-step McDonnell Douglas burden-shifting framework. *Gaujacq v. EDF, Inc.*, 601 F.3d 565, 2010 U.S. App. LEXIS 7308 (C.A.D.C. 2010).

The District of Columbia Human Rights Act (DCHRA) covers a claim where a plaintiff applied for a job that was located within the District of Columbia even though the decision to discriminate was made outside the District; the fact that the job was to be performed in the District of Columbia is a sufficient connection to assert that discrimination occurred in the District of Columbia. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Washington Metropolitan Area Transit Authority (WMATA), established by compact among Washington, D.C., Maryland, and Virginia, was not subject to employment discrimination claims under District of Columbia Human Rights Act; no signatory could impose its legislative enactment on WMATA without express consent of the other signatories and of Congress. D.C. Code 1981, §§ 1-2431, 1-2501 et seq. *Lucero-Nelson v. Washington Metro. Area Transit Auth.*, 1 F.Supp.2d 1, 1998 U.S. Dist. LEXIS 6928 (1998), appeal dismissed by 2005 U.S. App. LEXIS 14828 (D.C. Cir. July 19, 2005).

District of Columbia Human Rights Act is not applicable to District Financial Responsibility and Management Assistance Authority. D.C. Code 1981, § 1-2501 et seq. *Brewer v. D.C. Fin. Responsibility & Mgmt. Assistance Auth.*, 953 F. Supp. 406, 1997 U.S. Dist. LEXIS 892 (1997), affirmed without opinion by 132 F.3d 1480, 328

U.S. App. D.C. 134, 1997 U.S. App. LEXIS 40261 (1997).

District of Columbia Human Rights Act was intended to cover all discrimination concerning jobs located in the District, even if job application and decision to discriminate were made elsewhere. D.C. Code 1981, §§ 1-2501 et seq., 1-2512. *Green v. Kinney Shoe Corp.*, 704 F. Supp. 259, 1988 U.S. Dist. LEXIS 15989 (1988).

Employment discrimination plaintiff's "admission" that District of Columbia Human Rights Act did not apply to his application and that decision to discriminate for job in District was made outside District did not affect court's resolution of legal question of whether facts alleged gave rise to valid claim under District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 et seq., 1-2512. *Green v. Kinney Shoe Corp.*, 704 F. Supp. 259, 1988 U.S. Dist. LEXIS 15989 (1988).

The Human Rights Act is a broad remedial statute and is to be generously construed. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

If discriminatory employment practices occurred in District of Columbia, Human Rights Act applied, and subject matter jurisdiction existed in District, regardless of whether employee's actual place of employment was in Maryland, the District, or both. D.C. Code 1981, §§ 1-2501, 1-2512. *Matthews v. Automated Business Systems & Services, Inc.*, 558 A.2d 1175, 1989 D.C. App. LEXIS 100 (1989).

Discipline police officer received for missing a medical appointment and his removal from the department's horse mounted unit (HMU) were not pretext for unlawful retaliation for officer's engaging in activity protected under Title VII or the District of Columbia Human Rights Act; officer's failure to attend his medical appointment was the reason for his discipline, and he was removed from the HMU at his own request. *Mentzer v. Lanier*, 408 Fed.Appx. 379, 2010 U.S. App. LEXIS 22262 (C.A.D.C. 2010).

Police department's decision to investigate officers for secretly recording meetings with their superiors was not pretext for unlawful retaliation for officer's engaging in activity protected under Title VII or the District of Columbia Human Rights Act; the recordings were made in violation of department policy, and it occurred more than three years after any alleged protected activity. *Mentzer v. Lanier*, 408 Fed.Appx. 379, 2010 U.S. App. LEXIS 22262 (C.A.D.C. 2010).

Construction with federal law.

Elements of retaliation claim under District of Columbia Human Rights Act (DCHRA) are same as under federal employment discrimination laws. D.C. Code 1981, § 1-2501 et seq.

Hunter v. Ark Restaurants Corp., 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

District of Columbia courts determine the elements of a prima facie case of disability discrimination under the District of Columbia Human Rights Act based on cases decided under analogous federal antidiscrimination laws. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 159 F.3d 1369, 1998 U.S. App. LEXIS 29489 (C.A.D.C. 1998).

Law governing retaliation under ADEA applies to retaliation claims under District of Columbia Human Rights Act. Age Discrimination in Employment Act of 1967, § 4(d), 29 U.S.C. § 623(d); D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 119 F.3d 23, 1997 U.S. App. LEXIS 18992 (C.A.D.C. 1997).

Railroad employee stated claim for sex discrimination via constructive demotion against railroad under Title VII and the District of Columbia Human Rights Act (DCHRA), based on theory of disparate treatment, by alleging that she was member of a protected class, that she took position as yard engineer for lower pay rather than face continued harassment as engineer, that she was removed from regular assignment and placed on the "extra" list, and that she was denied pay for period of two months. *Tressler v. AMTRAK*, 819 F.Supp.2d 1, 2011 U.S. Dist. LEXIS 51329 (2011).

Sovereign immunity barred former employee's District of Columbia Human Rights Act (DCHRA) claims against the federal government, since the District of Columbia Council, not Congress, enacted the DCHRA, and there was no federal statute that evinces Congress's intent to waive the United States' immunity from suit under the DCHRA. *Marcus v. Geithner*, 813 F.Supp.2d 11, 2011 U.S. Dist. LEXIS 107566 (2011).

Employee's claims that power company violated the District of Columbia Human Rights Act (DCHRA) in discriminating against him on the basis of race in job assignments and overtime allocations, retaliated for seeking redress for the discrimination and created a hostile and abusive work environment did not require interpretation of a collective bargaining agreement (CBA), and therefore, were not preempted by the Labor Management Relations Act (LMRA), warranting remand to state court; employee asserted rights created by the DCHRA, not the CBA. *Daniels v. Potomac Elec. Power Co.*, 789 F.Supp.2d 161, 2011 U.S. Dist. LEXIS 62384 (2011).

Employment discrimination claims under the D.C. Human Rights Act are analyzed using the same legal framework as federal employment discrimination claims, and employment retaliation claims under the D.C. Human Rights Act are analyzed using the same legal

framework as federal employment retaliation claims. *Grandison v. Wackenhut Servs.*, 585 F.Supp.2d 72, 2008 U.S. Dist. LEXIS 92719 (2008).

District of Columbia Court of Appeals routinely looks to Title VII cases when ruling on appeals under the District of Columbia Human Rights Act (DCHRA). *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

In analyzing claim of employment discrimination under District of Columbia Human Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

District of Columbia Court of Appeals looks to parallel federal statutes and case law for guidance in interpreting District of Columbia Human Rights Act (DCHRA). *Cruz-Packer v. District of Columbia*, 539 F.Supp.2d 181, 2008 U.S. Dist. LEXIS 21444 (2008).

The elements of a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA) mirror the federal requirements under Title VII. *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

Title VII disparate treatment framework applied to District of Columbia Human Rights Act (DCHRA) claims alleging discrimination on basis of ethnicity. *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

Bystander liability applies to District of Columbia Human Rights Act (DCHRA) claims, given the close relationship between that D.C. statute and its federal counterparts. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

District of Columbia and federal courts often rely upon decisions of the federal courts in Title VII, §§ 1981, ADEA, and ADA cases to aid in construing the District of Columbia Human Rights Act (DCHRA); however, federal civil rights precedents are adopted when appropriate, not indiscriminately. *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

The legal standard for discrimination under the District of Columbia Human Rights Act (DCHRA) is substantively the same as under Title VII. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Actions brought under §§ 1981 and the District of Columbia Human Rights Act are evaluated in the same manner as claims arising under Title VII of the Civil Rights Act. *Jose v. Hospital for Sick Children*, 130 F.Supp.2d 38, 2000 U.S. Dist. LEXIS 20216 (2000).

District Court applies same standards in evaluating hostile work environment claims

under Title VII, § 1981, and District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Title VII damage cap of \$300,000 would not be applied to limit former employee's recovery under the District of Columbia Human Rights Act. 42 U.S.C. § 1981a(b)(3)(D); D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Same legal standards govern both § 1981 claims and District of Columbia Human Rights Act (DCHRA) claims. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Carney v. American Univ.*, 960 F. Supp. 436, 1997 U.S. Dist. LEXIS 5284 (1997), affirmed in part and reversed in part by, remanded by 151 F.3d 1090, 331 U.S. App. D.C. 416, 1998 U.S. App. LEXIS 18373, 73 Empl. Prac. Dec. (CCH) P45469, 77 Fair Empl. Prac. Cas. (BNA) 1115, 49 Fed. R. Evid. Serv. (CBC) 1477 (1998).

In applying District of Columbia Human Rights Act, courts generally apply the burden of proof for a claim of disparate treatment under federal law. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

For claims of employment discrimination under District of Columbia Human Rights Act (DCHRA), courts look to Title VII to determine the elements of a cause of action and the allocation of the burdens of production. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Legal standards applicable to race discrimination are the same under § 1981 and District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

District of Columbia courts employ same standard for retaliation claims under District of Columbia Human Rights Act (DCHRA) as federal law does under the ADEA. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Verdict in favor of plaintiff on claim under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., would be required to rest on finding of sex discrimination and/or retaliation, rather than race discrimination, because legal standards applicable and instructions given at trial under the DCHRA and 42 U.S.C. § 1981 were identical, and because jury found against plaintiff on her § 1981 claim. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Former employees did not unduly delay in moving to amend complaint to add class claims in action alleging employer had engaged in pattern and practice of gender discrimination and retaliation in violation of Title VII and the District of Columbia Human Rights Act (DCHRA), even if motion could have been made before unnecessary scheduling and dispositive motions briefing, since motion had been filed within pleading amendment deadline. *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 2011 U.S. Dist. LEXIS 117561 (2011).

In action brought under District of Columbia Human Rights Act (DCHRA), burdens on parties are same as those in Title VII actions. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Benn v. Unisys Corp.*, 176 F.R.D. 2, 1997 U.S. Dist. LEXIS 16971 (1997).

A court's reliance on federal cases construing Title VII when construing the District of Columbia Human Rights Act (DCHRA), while generally apt, must be mindful of differences between the federal and D.C. laws, which can be significant. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Courts follow cases construing Title VII in interpreting and applying the provisions of the District of Columbia Human Rights Act (DCHRA) when appropriate, that is, to the extent that the acts use similar words and reflect a similar purpose. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

In interpreting Human Rights Act, courts generally look to cases from federal court involving claims brought under Civil Rights Act of 1964 for guidance and have adopted those precedents when appropriate. D.C. Code 1981, §§ 1-2501 to 1-2557. *Benefits Communications Corp. v. Klieforth*, 642 A.2d 1299, 1994 D.C. App. LEXIS 91 (1994).

Court may look to cases construing Title VII of the Civil Rights Act 1964 as aid in construing District of Columbia Human Rights Act, given substantial similarity of both statutes' anti-discrimination provisions. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et

seq. *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Continuing violation.

Under District of Columbia Human Rights Act (DCHRA), employer's alleged failure to give female employee promised raise in retaliation for her report of sexual harassment was not sufficiently related to her subsequent termination for bringing her attorney with her to meeting with supervisor to qualify as continuing violation, even though events occurred one month apart, and thus earlier event was barred by limitations. *Russ v. Van Scoyoc Assocs.*, 122 F.Supp.2d 29, 2000 U.S. Dist. LEXIS 16991 (2000).

Under District of Columbia Human Rights Act, to establish continuing violation, it is not enough simply to show series of allegedly discriminatory action against same employee, even with same alleged motive, such as sex discrimination, but, rather, discrete events of discrimination must be linked to each other to form single, continuous policy of discrimination. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee established continuing violation of District of Columbia Human Rights Act, so that her claims based on incidents occurring more than one year before she filed action were not barred by statute of limitation; most of individual acts of racial and sexual discrimination were committed by same supervisor or by others in his office and were joined into single, continuous discriminatory policy. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Corporations.

Regardless of extent to which National Association of Securities Dealers (NASD) rules and by-laws might require arbitration of employment disputes between member-employer and registered employee, registered employee was not required to arbitrate her employment discrimination and retaliation claims once she agreed to dismiss all defendants except for non-member employer; employee joined related companies and supervisor as defendants out of abundance of caution, given broad definition of "employer" in District of Columbia Human Rights Act, but those defendants were not necessary parties. D.C. Code 1981, §§ 1-2501 et seq., 1-2502(10). *Gardner v. Benefits Commun. Corp.*, 175 F.3d 155, 1999 U.S. App. LEXIS 2700 (C.A.D.C. 1999).

In determining whether separate corporations can be considered single employer for purpose of hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981, court considers (1) inter-

relation of operations; (2) common management; (3) centralized control of labor relations; and (4) common ownership or financial control. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Indicia of interrelatedness of separate corporations for determining whether they can be considered single employer for purpose of hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981, include combined accounting records, bank accounts, lines of credit, payroll preparation, telephone numbers, or offices. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

In establishing whether there is common management of separate business entities under single-employer doctrine in hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981, court focuses on existence of common directors and officers who exercise control over daily operations and employment practices of entities. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

For punitive damages to be awarded against corporate defendant under District of Columbia Human Rights Act, it must be shown that wrongful act was authorized and ratified by corporation, not merely perpetrated by employee. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employees could not recover damages for employer's violation of District of Columbia Human Rights Act from shareholder in employer; employees had not shown unity of interest and ownership between shareholder and employer. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Closely held corporation whose contract was terminated because president and principal shareholder was Jewish had no religious or racial identity and, therefore, could not maintain action under civil rights statute giving equal right to make and enforce contract or under District of Columbia Human Rights Act. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Closely held corporation seeking to redress termination of its contract because its president and principal shareholder was Jewish lacked standing to maintain civil rights action

for violation of equal right to make and enforce contracts or District of Columbia Human Rights Act, even if corporation could assume racial or religious identity of president; corporation did not serve president's racial or religious identity and was merely vehicle for president to earn living. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Damages.

In limiting jury's damages award to reflect Title VII's \$300,000 cap on compensatory damages, district court should have reallocated that portion of Title VII damages above the statutory cap to plaintiff's recovery under District of Columbia Human Rights Act; damages under federal and local law could be treated as fungible when standards of liability were the same. 42 U.S.C. § 1981a(b)(3); D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 178 F.3d 1336, 1999 U.S. App. LEXIS 13639 (C.A.D.C. 1999), writ of certiorari dismissed by 528 U.S. 1147, 120 S. Ct. 1155, 145 L. Ed. 2d 1065, 2000 U.S. LEXIS 1004 (2000).

To recover on a claim for intentional infliction of emotional distress under District of Columbia law, plaintiff must demonstrate extreme and outrageous conduct which intentionally or recklessly caused severe emotional distress. *Thompson v. Jasas Corp.*, 212 F.Supp.2d 21, 2002 U.S. Dist. LEXIS 13266 (2002).

Liability for intentional infliction of emotional distress under District of Columbia law will be imposed only for conduct so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community. *Thompson v. Jasas Corp.*, 212 F.Supp.2d 21, 2002 U.S. Dist. LEXIS 13266 (2002).

Claims that employer allowed coworker who had assaulted employee to return to work early after unpaid leave, transferred employee to day shift and terminated her did not allege conduct that was sufficiently outrageous to support intentional infliction of emotional distress claim under District of Columbia law. *Thompson v. Jasas Corp.*, 212 F.Supp.2d 21, 2002 U.S. Dist. LEXIS 13266 (2002).

Where Title VII damage cap was applied to reduce jury's verdict in favor of former employee from \$4,893,807.40 to \$300,000, federal district court would not "reallocate" Title VII damages to former employee's recovery under the D.C. Human Rights Act so as to fully effectuate jury's intent; former employee provided no legal support for such action, and jury had made separate, specific awards under sep-

arate statutes, pursuant to specific instructions of law. 42 U.S.C. § 1981a(b)(3)(D); D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Where former employer and supervisors were found to have engaged in gender-based harassment of and retaliation against former employee in violation of the District of Columbia Human Rights Act, jury's award of \$500,000 for emotional pain and suffering and \$1 million in punitive damages against employer exceeded maximum limit of reasonable range within which jury could properly operate and, thus, would be reduced to \$100,000 and \$200,000, respectively. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Award of \$75,000 to employee for intentional infliction of emotional distress arising from racial and sexual discrimination in violation of District of Columbia Human Rights Act was appropriate; reported emotional distress awards to plaintiffs who suffered employment discrimination, but, like plaintiff, were not discharged because of it, ranged from \$2,500 to \$100,000, and public accusations that employee endured, her embarrassment at receiving inferior work space and unimportant work, humiliating remedial training she was forced to take, and many other insults she suffered entitled her to award at upper end of that range. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee was not entitled to compensatory damages for posttraumatic stress disorder (PTSD) in his race discrimination action against employer under District of Columbia Human Rights Act; trauma suffered as result of discrimination was not sufficiently severe to trigger PTSD, and employee's own psychologist did not assert that employee suffered from PTSD. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Punitive damages are available under District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Punitive damages may be awarded under District of Columbia Human Rights Act only against one who participated in doing of wrongful act or had previously authorized or subsequently ratified it with full knowledge of facts. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Punitive damages may be awarded under District of Columbia Human Rights Act only if conduct complained of was willful and outrageous, constituted gross fraud, or was aggra-

vated by evil motive, active malice, deliberate violence, or oppression. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employees who were subjected to racial and sexual discrimination in violation of District of Columbia Human Rights Act were entitled to punitive damages; in establishing their claims of intentional infliction of emotional distress, employees established that employer's actions were both intentional and outrageous. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Setting amount of punitive damage under District of Columbia Human Rights Act is within sound discretion of trial court sitting without jury. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee was entitled to \$75,000 in punitive damages for racial discrimination in violation of District of Columbia Human Rights Act; employer's behavior was willful, employee was continually harassed in his job, forced to work under more trying conditions than nonblacks, assigned menial tasks, kept in dark about departmental procedure, given impossibly short deadlines, and ultimately fired. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee was entitled to \$50,000 in punitive damages for racial and sexual discrimination in violation of District of Columbia Human Rights Act; employer's behavior was willful, employee was continually harassed in her job, treated worse than male and nonblack employees, and humiliated in front of her colleagues, but she was not fired. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee was entitled to award of \$100,000 in damages for intentional infliction of emotional distress arising from racial discrimination in violation of District of Columbia Human Rights Act; employee's psychologist found that after losing his job employee also lost his hair, appetite, interest in sex, interest in eating, ability to sleep, professional enthusiasm and motivation, sense of humor, optimistic attitude, fiancée, sense of independence and confidence, and desire to socialize, employer's expert found that, although discharge did not trigger any psychiatric pathology, it caused employee grief and anger, and reported awards of nonpecuniary damages for plaintiffs who lost their jobs as result of employment discrimination ranged from \$500 to \$123,000. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Even though employee obtained none of the punitive damages or injunctive relief sought, ultimately failed to prevail on three employment discrimination claims and recovered only \$2,000 against four defendants, employee who proved claim under District of Columbia Human Rights Act was prevailing party entitled to award of attorney fees. D.C. Code 1981, § 1-2501 et seq. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Damages in excess of \$400 per defendant under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., is a specialized form of compensatory damages, rather than punitive damages. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

In action brought by former employee against employer alleging sex discrimination and retaliatory discharge in violation of the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., award of \$200,000 in punitive damages had no basis under the Act. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Award of punitive damages under District of Columbia Human Rights Law was warranted where District of Columbia employee was demoted, incident occurred publicly as evidenced by newspaper coverage and District of Columbia's acts were repetitive to extent that they constituted harassment or caused unusual inconvenience. D.C. Code 1981, § 1-2501 et seq. *McCormick v. District of Columbia*, 554 F. Supp. 640, 1982 U.S. Dist. LEXIS 16682 (1982).

Any error in failing to reinstruct jury in response to question seeking additional guidance on awarding damages was harmless in action against District of Columbia (district) by employee under Title VII and the District of Columbia Human Rights Act (DCHRA) in which jury found district liable on a hostile work environment claim but awarded only \$1 in nominal damages, as the excerpts that employee presented on appeal from trial transcript did not contain evidence that she suffered pain and suffering resulting from abusive work environment. *Ivey v. District of Columbia*, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

Though applicable to some claims of negligent infliction of emotional distress, standard jury instruction setting out physical injury or "zone of danger" as a prerequisite to the award of damages for emotional distress is not a proper limitation to the award of damages for mental distress as compensation for injury caused by unlawful discrimination under Title VII or the DCHRA. *Ivey v. District of Columbia*, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

A compensatory damages award under District of Columbia Human Rights Act (DCHRA) must be upheld unless it is well beyond the reasonable range which might be awarded in a case such as the one at bar. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Although employer's behavior was discriminatory, employer's actions were not malicious, wanton, or willful so as to warrant award of punitive damages to employee who prevailed on her sex discrimination claim under District of Columbia Human Rights Act (DCHRA); employee's evidence failed to establish that supervisory personnel both participated in and otherwise condoned working conditions in which employee was subjected to gender-based comments on a regular basis. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Jury's award of \$300,000 in compensatory damages, including damages for future lost earnings and emotional distress, to employee who prevailed on her sex discrimination claim under District of Columbia Human Rights Act (DCHRA) was proper; there was ample evidence to support an award of \$171,226 to \$197,864 for lost income, and approximately \$100,000 emotional distress damages award was not beyond all reason. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Punitive damages are available in all discrimination cases under District of Columbia Human Rights Act (DCHRA), subject only to general principles governing any award of punitive damages. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

There was sufficient evidence of malice or evil motive to support jury's award of punitive damages to employee on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA); employee had directly told his manager to stop making age-based comments, and manager persisted in his ridicule and condoned or encouraged other employees when they made similar remarks. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Ten thousand dollar compensatory damages award to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA) was not excessive; employee testified that insulting behavior of his supervisor and co-workers made him feel inadequate and inept, and employee's wife said that he suffered

both mentally and physically in the weeks before he was fired. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Punitive damages award of \$390,000, which was awarded to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA), was not so grossly excessive as to violate due process, even though punitive damages award was 39 times employee's \$10,000 compensatory damages award. U.S. Const. Amend. 14; D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Subdivision (a)(1) of § 1-2512 provides a basis for a cause of action for compensatory damages, even in the absence of a person applying for an existing vacancy or for a particular promotion, and even where there is no basis for an award of back pay in the particular circumstances; thus, simply telling a black employee who is working for her employer physically in the District of Columbia that her opportunities for transfer or promotion were precluded by the fact that she was black is a violation of the District of Columbia Human Rights Act. *Holt v. Life Care Servs. Corp.*, 121 WLR 1497 (Super. Ct. 1993).

Default judgment.

Nightclub owner's failure to timely answer disabled individual's complaint was negligent, rather than willful, and thus weighed in favor of vacating default entered against owner in action alleging owner violated Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA) by denying individual entry into nightclub, where owner's members had been involved in dispute over ownership of nightclub, and owner had been unclear as to what each member's interest in nightclub was, who majority members were, and whether certain members would remain with nightclub. *Wilson v. Superclub Ibiza, LLC*, 279 F.R.D. 176, 2012 U.S. Dist. LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Vacating entry of default entered against nightclub owner would not prejudice disabled individual in action alleging owner violated Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA) by denying individual entry into nightclub, where owner had filed its initial answer one month after entry of default, and minimal delay had not resulted in loss of relevant evidence or witnesses. *Wilson v. Superclub Ibiza, LLC*, 279 F.R.D. 176, 2012 U.S. Dist.

LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Defenses.

Employer had good faith belief that male employee abandoned his job, such that termination was for legitimate non-discriminatory reason that did not violate the District of Columbia Human Rights Act (DCHRA), where employee did not show up for multiple shifts for which he was solely responsible. *Wilkerson v. Wackenhut Protective Servs.*, 813 F.Supp.2d 61, 2011 U.S. Dist. LEXIS 108201 (2011).

As under Title VII, in determining whether judgment as matter of law is appropriate in any particular case under District of Columbia Human Rights Act (DCHRA), district court must consider the employer's legitimate non-retaliatory reason for adverse action and, ultimately, whether the plaintiff has offered sufficient evidence for reasonable jury to find that retaliation actually motivated employer's decision. *Francis v. District of Columbia*, 731 F.Supp.2d 56, 2010 U.S. Dist. LEXIS 137113 (2010).

Director and employees of public library were entitled to qualified immunity from suit by homeless person alleging that library regulation authorizing library personnel to bar patrons based on "objectionable" appearance violated First and Fifth Amendments, and District of Columbia Human Rights Act (DCHRA); reasonable person would not have known that regulation violated clearly established constitutional right. *Armstrong v. D.C. Pub. Library*, 154 F.Supp.2d 67, 2001 U.S. Dist. LEXIS 12585 (2001).

Employer may not be held liable for supervisor's hostile work environment harassment if employer is able to establish that it had adopted policies and implemented measures such that victimized employee either knew or should have known that employer did not tolerate such conduct and that she could report it to employer without fear of adverse consequences; however, this remedial defense depends on ability of employer to establish that its employees could not reasonably have failed to know of those measures and that its grievance procedures were clearly calculated to encourage victims of harassment to come forward. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Business school's director articulated legitimate reasons for why he stopped employee who was on school's premises after hours and inquired about contents of the boxes that employee was carrying so as to rebut the prima facie case of retaliation established by employee under § 1981 and District of Columbia Human Rights Act (DCHRA); employee was not authorized to be on school's premises at time of his after-hours stop while removing boxes from

school premises, this conduct on part of employee was unusual and reasonably prompted inquiry by director to determine if he was removing school's property, and director's conduct was motivated by legitimate concern for records and documents of the school. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Employer articulated legitimate, nondiscriminatory reasons for why black employee was denied promotion and employee did not demonstrate that employer's reasons were pretextual so as to establish denial of promotion claim under § 1981 and District of Columbia Human Rights Act (DCHRA); employee failed to timely report for work, employee elected to do field work without notifying his supervisor, employee became angry and challenged supervisor's judgment when admonished about his conduct, and when informed that promotions were being deferred, employee became so angry with supervisor that he requested leave time to regain his composure. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Nightclub owner had potentially meritorious defense to disabled individual's claim that it discriminated against her by denying her entry into nightclub, and thus weighed in favor of vacating default entered against owner in action alleging violations of Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA); owner alleged it had denied individual entry into nightclub not because of her claimed medical disability but because she had become "out of control, loud and abusive" and had refused to be searched prior to entry into nightclub pursuant to its security policy. *Wilson v. Superclub Ibiza, LLC*, 279 F.R.D. 176, 2012 U.S. Dist. LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Defendants in suit asserting claims under the District of Columbia Human Rights Act (DCHRA) for unliquidated damages did not waive municipal notice defense, where time between the filing of plaintiffs' complaint and first invocation of defense by the defendants was just barely over a year, and during that time there was minimal activity in the case and defendants underwent a change of counsel. *Giardino v. District of Columbia*, 252 F.R.D. 18, 2008 U.S. Dist. LEXIS 62499 (2008).

University waived or abandoned its statute-of-limitations defense to employee's pay discrimination claim under the District of Columbia Human Rights Act (DCHRA), where university's motion for summary judgment, while including a footnote on the statute of limitations, made no textual argument on the

subject and cited no applicable case law, university's motion for reconsideration included no contention regarding the statute of limitations, and university did not assert the statute of limitations as an affirmative defense in parties' joint pretrial statement, but instead first made argument on the defense in a trial brief filed one week before trial. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

Discovery.

Former employee's request to take 13 additional depositions after amendment to complaint against former employer for violations of District of Columbia Human Rights Act (DCHRA), was unsubstantiated, and thus, discovery deadline would be extended to allow him to take only two additional depositions; employee failed to identify six additional non-defendant witnesses, explain why he needed to depose them or why he did not do so before. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Before company that purchased stock of discrimination plaintiff's employer five months after termination would be entitled to summary judgment in action under District of Columbia Human Rights Act (DCHRA), plaintiff employee had to be afforded opportunity to take discovery in regard to both successor's awareness of her claim and other defendants' ability to satisfy judgment sought. *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

Discrimination.

— Age, discrimination.

Employee failed to present any evidence rebutting partnership's explanation that it did not make employee a partner because there was no business case for doing so, as required to establish his age "had a determinative influence" upon partnership's failure to promote him in violation of the District of Columbia Human Rights Act (DCHRA) or was the "but-for" cause of that decision in violation of the Age Discrimination in Employment Act (ADEA). *Schuler v. PricewaterhouseCoopers, LLP*, 595 F.3d 370, 2010 U.S. App. LEXIS 2998 (C.A.D.C. 2010), dismissed by 813 F. Supp. 2d 45, 2011 U.S. Dist. LEXIS 108645 (D.D.C. 2011).

In order for there to be "adverse employment action," sufficient to support claim that employer violated Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), there must be significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. *Everson v. Medlantic Healthcare*

Group, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Employee's unwillingness to work hours required for head chef position rendered her unqualified for such position, and she thus failed to establish prima facie case of age discrimination under District of Columbia Human Rights Act (DCHRA) based on her alleged termination. *Luhrs v. Newday, LLC*, 326 F.Supp.2d 30, 2004 U.S. Dist. LEXIS 12758 (2004).

To make out prima facie case of age discrimination under ADEA, applicant must establish her membership in protected age group, her qualifications for position, and that she was not selected for position; at bottom, applicant must demonstrate facts sufficient to create reasonable inference that age discrimination was determining factor in employment decision. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

Former employee's poor work performance was legitimate non-age based reason for his termination as senior vice president, in employee's action under ADEA and District of Columbia Human Rights Act (DCHRA); performance evaluations of other senior vice presidents did not provide evidence to support employee's claim of wrongful age-based termination. *Age Discrimination in Employment Act of 1967*, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 12 F.Supp.2d 15, 1998 U.S. Dist. LEXIS 13137 (1998).

Age discrimination plaintiffs who raise collective claim of pattern or practice discrimination have as their initial burden the task of demonstrating that unlawful discrimination was regular policy of employer or that discrimination was employer's regular practice. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

In liability stage of collective pattern or practice age discrimination action, plaintiffs must show that unlawful discrimination has been regular procedure or policy followed by employer or group of employers. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

In liability stage of collective pattern or practice age discrimination action, plaintiffs need not offer evidence that each person for whom they will ultimately seek relief was victim of employer's discriminatory policy; their burden

is to establish prima facie case that such policy existed. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

If it is determined that employer did not engage in pattern or practice of age discrimination, then trial of collective claims is completed and plaintiffs may pursue individual discrimination claims. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Applicable legal standards are not known until after finder of fact considers collective pattern or practice age discrimination action, where plaintiffs bring both individual and collective pattern or practice claims of discrimination. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Courts should consider collective pattern or practice age discrimination claims prior to turning their attention to individual claims, where individual and collective claims are brought contemporaneously. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Age discrimination plaintiffs who raise collective claim of pattern or practice discrimination may meet initial burden of showing policy or practice of discrimination by either producing direct or circumstantial evidence that their employer effectuated pattern of discriminatory, age-based decision making, or by utilizing burden shifting method of proof. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Upon entering remedial stage of collective pattern or practice age discrimination action, proof of pattern or practice supports inference that any particular employment decision during period in which discriminatory policy was in force was made in pursuit of that policy, and it is presumed that each individual plaintiff has been victim of age discrimination at hands of employer. *Americans with Disabilities Act of 1990*, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

While replacement by a younger person is necessary for a prima facie case of age discrimination, it does not, in and of itself, challenge employer's legitimate reason for adverse em-

ployment action and does not automatically imply discrimination. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Former employee established a *prima facie* case of age discrimination under the ADEA and District of Columbia Human Rights Act (DCHRA) by showing that he was 50 years old at time of his termination, he was replaced by a 40-year-old woman, he worked with employer for 22 years, and he held successive management positions and progressing consistently upward within company suggesting that he possessed the basic skills for his position. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Dissatisfaction with age discrimination plaintiff's work was a legitimate, nondiscriminatory reason for employee's termination, despite fact that plaintiff had been praised by outsiders to the company; plaintiff received consistently negative evaluations yet plaintiff chose not to question or challenge evaluations, continuing without regard to employer's clearly delineated criticism of his work. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Age discrimination plaintiff's own opinion of his performance was not relevant to employer's decision to terminate his employment, for purposes of determining whether employer had a legitimate, nondiscriminatory reason which did not violate the ADEA or the District of Columbia Human Rights Act (DCHRA). Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224,

1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Former employee failed to establish that employer's reason for terminating employee, his poor performance, was a pretext for age discrimination; idea that employer's rationale for terminating employee was a pretext for anything was undermined by fact that employee's problems in areas enumerated by employer existed long before employee reached threshold age protected by the ADEA and District of Columbia Human Rights Act (DCHRA). Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Former employee failed to present a *prima facie* case that employer discriminated against her based on age by hiring a younger person for travel services position, which employee applied for after her position was terminated, where she failed to present any evidence that she had the relevant education and experience required in the job posting, even though she had 27 years of experience working for employer. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

— Disability, discrimination.

Employee's disability benefits application, wherein neurologist stated that employee's job could not be modified to allow for handling with impairment, was relevant to her claim, in disability discrimination action, that she could perform her job with accommodation, and to employer's theory that employee wished to retire immediately to maximize disability benefits, and therefore had never requested accommodation. D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 159 F.3d 1369, 1998 U.S. App. LEXIS 29489 (C.A.D.C. 1998).

Employee's receipt of social security disability benefits for listed disability was not inconsistent with her claim that she could perform her job with reasonable accommodation, and thus did not preclude her from bringing claim of disability discrimination under District of Columbia Human Rights Act; Social Security Administration made no further inquiry after finding that disability was listed. D.C. Code 1981, § 1-2501 et seq.; 20 C.F.R. § 404.1520(d). *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Under District of Columbia Human Rights Act, if insurer makes disability determinations

without regard to whether insured can work with reasonable accommodation, award of benefits does not preclude later claim that insured can work with accommodation. D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Under District of Columbia law, employee's receipt of private disability benefits was not inconsistent with her claim that she could perform her job with reasonable accommodation, and thus did not bar her from bringing disability discrimination claim against her employer; residual disability benefits were available while employee continued to work but her income was reduced, and her eligibility for total disability benefits did not take into account her ability to work with accommodations. D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Under District of Columbia Human Rights Act, condition is "handicap" protected by Act only if it substantially limits one or more of plaintiff's major life activities. D.C. Code 1981, § 1-2501 et seq. *Katradis v. Dav-El of Washington*, 846 F.2d 1482, 1988 U.S. App. LEXIS 6875 (C.A.D.C. 1988).

Obstetrician had no legitimate, nondiscriminatory reason for refusing prenatal services to deaf patient, where he failed to learn anything about her medical history before he refused to treat her, and therefore, obstetrician violated D.C. Human Rights Act (DCHRA). D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Handicapped woman failed to make prima facie case of employment discrimination under Human Rights Act where she presented herself as someone who was either unable or unwilling to work at all. D.C. Code 1981, §§ 1-2502(23), 1-2512(a)(1). *Miller v. American Coalition of Citizens with Disabilities, Inc.*, 485 A.2d 186, 1984 D.C. App. LEXIS 562 (1984).

Showing prima facie case of employment discrimination against the handicapped requires, at minimum, that employee present herself to employer as someone willing and able to work, but for surmountable handicap; this showing must precede any shift of burden to employer to demonstrate that there can be no reasonable accommodation for employee's handicap and thus that failure to employ is nondiscriminatory. D.C. Code 1981, § 1-2512(a)(1). *Miller v. American Coalition of Citizens with Disabilities, Inc.*, 485 A.2d 186, 1984 D.C. App. LEXIS 562 (1984).

— Gender, discrimination.

Federal employee stated adverse employment action element of her Title VII sexual discrimination claim against government by alleging that supervisor did not permit her to

fulfill basic responsibilities of her job description, denigrated her achievements at every opportunity, circulated intimidating and false accusatory memoranda about her, and never gave her performance evaluations commensurate with her actual performance, preventing her proper advancement. *Higbee v. Billington*, 246 F.Supp.2d 10, 2003 U.S. Dist. LEXIS 2524 (2003).

Terminated female medical school faculty member, alleging gender discrimination in violation of District of Columbia Human right Act, failed to show that male colleague who was retained was similarly situated, where male had been employed longer and was board-certified in specialty when appointed head of that specialty group, while female was not certified until later, female was assistant professor while male was associate professor, and male was part-time while female was full-time. D.C. Code 1981, § 1-2501 et seq. *Slaughter v. Howard Univ.*, 971 F. Supp. 613, 1997 U.S. Dist. LEXIS 12215 (1997), vacated without op. by 172 F.3d 921, 335 U.S. App. D.C. 320, 1998 U.S. App. LEXIS 38402 (1998).

Female employee who alleged that employer assigned significant job responsibilities to male worker because of her gender, responsibilities which purportedly placed worker in better position for increased compensation and further advancement, alleged materially adverse employment action against her, and therefore, stated claim for disparate treatment under the District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

District of Columbia Human Rights Act reaches employer's allocation of responsibilities among employees of equal rank if employer's allocation is based on sex. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

Employee establishes prima facie case of sexual harassment under District of Columbia Human Rights Act (DCHRA) upon demonstrating that unwelcome verbal and/or physical advances of a sexual nature were directed at her in the workplace, resulting in hostile or abusive working environment; totality of the circumstances must be considered. D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Supervisor's brushing his pinky against employee's knee while the two were reviewing documents, supervisor's pressing his knee against employee's knee while reviewing documents, supervisor's brushing employee's shoulder while pointing out something on calendar, and supervisor's standing so close to employee

while discussing business matter that she could feel his breath on her neck were isolated incidents and trivial as a matter of law and these incidents were not so severe or pervasive so as to create work environment abusive to employee because of her gender, thus offending Title VII's and District of Columbia Human Rights Act's (DCHRA) broad rule of workplace equality. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

When, in response to female employee's inquiry as to whether her attire was in compliance with company's dress code, supervisor stated "in my opinion, you always dressed very professionally. In fact, you look beautiful," supervisor's statement to employee "when you work with someone, it's hard to have any other kind of relationship with them other than just professional," supervisor's suggesting that he and employee go running together, and supervisor's offering employee a treadmill exercise machine provided she pick it up at his house did not establish prima facie case of sexual harassment under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Because female employee was replaced by another woman, employee failed to establish prima facie case of sex discrimination under Title VII and District of Columbia Human Rights Act (DCHRA), absent proof that employer hired someone less qualified as her successor, or that employer treated women and men differently. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Schwartz v. Paralyzed Veterans of Am.*, 930 F. Supp. 3, 1996 U.S. Dist. LEXIS 9045 (1996).

Even if supervisor's description of employee, in her capacity as employer's media relations manager, could be seen as pretext for sex discrimination, to extent that supervisor referred to employee as "passive" or not "aggressive" or stated that she was "mute" in meetings, this would not replace the greater enterprise of proving that real reason for employee's termination was intentional discrimination, as required for employee to maintain claims under Title VII and District of Columbia Human Rights Act (DCHRA). Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Schwartz v. Paralyzed Veterans of Am.*, 930 F. Supp. 3, 1996 U.S. Dist. LEXIS 9045 (1996).

Employer would not be unduly prejudiced by amendment of employees' complaint to add class claims in action alleging gender discrimination and retaliation in violation of Title VII

and the District of Columbia Human Rights Act (DCHRA), since original complaint already contained allegations of pattern and practice of discrimination. *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 2011 U.S. Dist. LEXIS 117561 (2011).

Conduct need not be overtly sexual to contribute to a sexual harassment hostile work environment claim under District of Columbia Human Rights Act (DCHRA); rather, all adverse conduct is relevant so long as it would not have taken place but for the gender of the alleged victim. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Under District of Columbia Human Rights Act (DCHRA), sexual harassment must be sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment, and plaintiff must show that her psychological well-being has been detrimentally affected. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

To prove sex or gender discrimination under District of Columbia Human Rights Act (DCHRA), employee was required, initially, to make a prima facie showing of discrimination by a preponderance of the evidence, and prima facie case could be made by demonstrating that employee was member of protected class, that she was qualified for promotion, that she was rejected upon seeking the promotion, and that substantial factor in her rejection was her membership in protected class. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

In order to establish prima facie case of sexual discrimination in decision to terminate, female employee had to come forward with evidence that she was fired from job for which she was qualified while men, similarly situated to her, were not terminated, but rather treated more leniently. D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. *O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

Female employee who was asked to resign because of misconduct failed to show that she was victim of disparate treatment in manner of her termination, although male employee who had performed inadequately had been demoted and another male employee who had experienced friction with coemployees had been transferred to another position; men fired because of their conduct were asked to resign.

D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. *O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

Human Rights Act was not intended to include gender-based insurance pricing within scope of its discrimination prohibition; insurance code allowed maximum three-year setback for calculating life premiums for women, but not for men, due to fact that women's life expectancies were longer than men's, shortly after the Human Rights Act was adopted, opinion was requested from corporation counsel as to whether life insurance setbacks violated the Act, and permissible setback was increased to six years upon receipt of counsel's opinion pointing out that Human Rights Act did not regulate insurance premium practices, either explicitly or inferentially. D.C. Code 1981, §§ 1-2501 to 1-2557, 35-507(d)(5, 6); D.C. Code 1973, § 35-705b(d). *NOW v. Mutual of Omaha Ins. Co.*, 531 A.2d 274, 1987 D.C. App. LEXIS 438 (1987).

Human Rights Act did not proscribe use of gender-based categories in setting insurance rates. D.C. Code 1981, §§ 1-2501 to 1-2557. *NOW v. Mutual of Omaha Ins. Co.*, 531 A.2d 274, 1987 D.C. App. LEXIS 438 (1987).

For purposes of establishing a prima facie case of sexual harassment, more than a few isolated incidents must have occurred and genuinely trivial occurrences will not establish a prima facie case; that the alleged instances of sexual harassment are isolated and trivial must be demonstrated by the defendant as a matter in defense against the plaintiff's prima facie case. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

In determining whether a plaintiff has established a prima facie case of sexual harassment, no specific number of incidents and no specific level of egregiousness can be set and fact that each incident may not be individually actionable is not determinative; instead, trier of fact must consider totality of the circumstances keeping in mind that there are cases in which extreme and outrageous nature of the conduct arises not so much from what is done as from abuse by the defendant of relationship with the plaintiff which gives him power to damage the plaintiff's interest. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

For purposes of establishing a prima facie case of sexual harassment, whether the work environment has been rendered abusive or offensive depends upon the plaintiff's showing

that her psychological well-being has been detrimentally affected; in effect, the plaintiff is required to show some emotional damages as a result of the harassment, and the issue is whether the work environment has been poisoned by sexual insults and demeaning propositions. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

A plaintiff establishes a prima facie case of sexual harassment, for purposes of the District of Columbia Human Rights Act, upon demonstrating that unwelcome verbal and/or physical advances of a sexual nature were directed at him/her in the workplace and resulted in a hostile or abusive working environment. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Fact that university faculty member negotiated her salary with her employer did not destroy her claim of sex discrimination in compensation. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Sexual harassment which creates a discriminatory environment but does not cause any employee loss of any tangible work benefits such as promotion is nevertheless "discrimination" in a term, condition or privilege of employment, for purposes of the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

For purposes of establishing a prima facie case of sexual harassment, "unwelcome" conduct is conduct which the employee did not solicit or incite and which the employee regarded as undesirable or offensive. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Test to determine whether an action legally constitutes sexual harassment is a balancing test including factors such as amount and nature of the conduct, the plaintiff's response, and relationship between the plaintiff and the harassing party; such test, which recognizes that a hostile and intimidating environment results from various combinations of frequency and offensiveness of behavior, allows jury to determine, as representative of larger community, on case-by-case basis, behavior which values and norms of community, as only generally expressed in statutes prescribing such conduct, will not tolerate. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et

seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

— In general.

Where the record contains no direct evidence of discrimination, the District Court must employ the burden shifting framework of *McDonnell Douglas Corp. v. Green* as to both Title VII and District of Columbia Human Rights Act (DCHRA) claims. *Brown v. Small*, 437 F.Supp.2d 125, 2006 U.S. Dist. LEXIS 46069 (2006).

Where former employer and supervisors were found to have engaged in gender-based harassment of and retaliation against former employee in violation of the District of Columbia Human Rights Act, jury's allocation of responsibility and damages as to employee's immediate supervisor and that supervisor's direct supervisor were proper; verdict reflected jury's conclusion that immediate supervisor's harassment inflicted substantial pain and suffering, that his supervisor had no responsibility for harassment, and that his supervisor was responsible, to modest degree, for employee's pain and suffering attributable to the retaliation. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Terminated university employee failed to establish prima facie case that she was discriminated against because of national origin (American born), where comparator was born in the Canal Zone of Panama to American parents and had always been a United States citizen, and plaintiff did not allege or show that American-born persons were in the minority at university hospital or in the college of medicine. D.C. Code 1981, § 1-2501 et seq. *Slaughter v. Howard Univ.*, 971 F. Supp. 613, 1997 U.S. Dist. LEXIS 12215 (1997), vacated without op. by, remanded without opinion by 172 F.3d 921, 335 U.S. App. D.C. 320, 1998 U.S. App. LEXIS 38402 (1998).

Employer was liable, under District of Columbia Human Rights Act, for punitive damages for acts of racial and sexual discrimination by supervisor and other employees; employer's senior officials were aware of supervisor's discriminatory acts, failed to take corrective action, and renewed supervisor's contract after notification about acts. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Supervisor's racial and sexual discrimination in violation of District of Columbia Human Rights Act was sufficiently severe to establish intentional infliction of emotional distress claim against employer; among other conduct, supervisor gave employee inadequate and inferior workspace, diverted prestigious and important projects away from females, treated em-

ployee more coldly and rudely than nonblack males, gave her written warnings for poor performance when nonblack males did not receive such warnings, criticized her publicly, gave others credit for her work, refused her overtime compensation that he gave to nonblack males, tore up and burned her work, wrote childish, sarcastic, and derogatory comments on her work, and forced her to take humiliating remedial training. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Elevator manufacturer did not violate District of Columbia Human Rights Act when it refused to enter into contract to maintain elevators it installed in apartment complex in which residents were primarily black, handicapped or elderly, absent showing that manufacturer's refusal to deal was discriminatory, rather than motivated by legitimate business reasons. D.C. Code 1981, §§ 1-2501 et seq., 1-2511, 1-2515, 1-2519. *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 728 F. Supp. 24, 1990 U.S. Dist. LEXIS 322 (1990), affirmed in part and vacated in part by 929 F.2d 714, 289 U.S. App. D.C. 121, 1991 U.S. App. LEXIS 5392 (1991).

Inappropriate but isolated comments that amount to no more than stray remarks in the workplace do not have any relationship to adverse employment action for purposes of employment discrimination claim. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To render a decision between two contestants is not, standing alone, an act of discrimination, whether the decision is right or wrong. *Jones v. Howard University*, 574 A.2d 1343, 1990 D.C. App. LEXIS 111 (1990).

Employer's mistaken belief that one employee's conduct is more serious and deserves a harsher response is not a pretext for discrimination if the belief is credible and is not a sham or pretext. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

While expert testimony established the presence of facial hair may decrease the ability of firefighters to maintain an adequate seal between their masks and their faces, firefighters who wore beards because of folliculitis barbae provided irrefutable physical evidence that bearded firefighters could maintain a proper face-mask seal, therefore, such grooming regulations violated the Human Rights Act. *Kennedy v. Dixon*, 119 WLR 2637 (Super. Ct. 1991).

— Pregnancy, discrimination.

Under *McDonnell Douglas*, employee alleging violations of Pregnancy Discrimination Act, FMLA, or District of Columbia Human Rights Act has to establish prima facie case of discrim-

ination, at which point employer has to produce evidence articulating a legitimate, nondiscriminatory reason for its actions, after which employee has to produce substantial probative evidence that proffered reason was not the true reason, and that the real reason was discriminatory animus. Civil Rights Act of 1964, § 701(k), as amended, 42 U.S.C. § 2000e(k); Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C. § 2601 et seq.; D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Employee established prima facie case under Pregnancy Discrimination Act and District of Columbia Human Rights Act by establishing that she was pregnant, she was qualified, she was fired, she was replaced by woman who was not pregnant, and her replacement performed employee's former job while devoting at least some of her time to other responsibilities. Civil Rights Act of 1964, § 701(k), as amended, 42 U.S.C. § 2000e(k); D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Employee failed to rebut nondiscriminatory reason proffered by political party's campaign committee for terminating her when she refused to work full-time, i.e., that it was planning to launch major new off-cycle initiative, and committee thus was not liable under Pregnancy Discrimination Act, retaliation provisions of FMLA, or District of Columbia Human Rights Act; coemployee who allegedly said he did not expect increase in committee's workload was not involved in termination decision, employee failed to refute evidence showing committee reasonably believed workload would increase, and employee's replacement worked full-time, not part-time. Civil Rights Act of 1964, § 701(k), as amended, 42 U.S.C. § 2000e(k); Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C. § 2615(a)(1); D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Temporal relationship between former employee's pregnancy and miscarriage and employer's decision to replace her did not give rise to inference of discrimination that would fill void in employee's prima facie case of sex discrimination under Title VII and District of Columbia Human Rights Act (DCHRA), where employee conceded that her temporary inability to travel and her need for time off after her miscarriage were treated sympathetically and correctly by employer, and she was not pregnant when employer decided to replace her as media relations manager or when she was ultimately released entirely. Civil Rights Act of

1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Schwartz v. Paralyzed Veterans of Am.*, 930 F. Supp. 3, 1996 U.S. Dist. LEXIS 9045 (1996).

Employee allegedly terminated because of her sex, as exemplified by her pregnant condition, and because of her family responsibilities, including her refusal to have abortion, stated cognizable claim for unlawful discharge under District of Columbia's public policy exception to rule that at-will employees are subject to termination for any reason; District of Columbia Human Rights Act prohibited discrimination based on sex, including pregnancy and childbirth, and on family responsibilities. D.C. Code 1981, §§ 1-2501, 1-2505. *MacNabb v. MacCartee*, 804 F. Supp. 378, 1992 U.S. Dist. LEXIS 16265 (1992).

Exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan did not constitute a violation of District of Columbia Human Rights Law prohibiting employers from treating marriage or lack of marriage as a lawful factor to be considered in hire, tenure or conditions of employment, and prohibiting disparate treatment of married and unmarried mothers, because with respect to such plan, there was no evidence whatsoever of discrimination on basis of marital status. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Company-paid sick leave and benefit plan, which excluded pregnancy-related disabilities, did not amount to discrimination against persons with "family responsibilities," a prohibited practice under District of Columbia Human Rights Law, because once actual dependency occurs, a mother is free and clear under maternity leave clause to resume employment whenever her health permits, and because it would be a strange paradox to condemn as discriminatory a practice which might hurt a person's "potential" for family responsibilities, but harms not in slightest persons whose family responsibilities have indeed materialized. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Provision of District of Columbia Human Rights Law which added to categories protected against discrimination did not compel finding that exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan violated Human Rights Law. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

— Race, discrimination.

Alleged discrimination by former decision-maker who was not involved in deliberations

relating to decision of subsequent decision-makers not to promote assistant professor to professor was not relevant to claim of ethnicity discrimination based on failure to promote under District of Columbia Human Rights Act (DCHRA). *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

Ethnicity discrimination could not be inferred under District of Columbia Human Rights Act (DCHRA) from mere fact that decision-makers at university concluded that assistant professor's scholarship was not worthy of promotion to highest academic rank after two university committees had recommended assistant professor for such promotion; instead, assistant professor had to demonstrate that proffered explanation was not university's true reason for denying his promotion, which he could not do because university's misgivings were grounded in fact that his portfolio contained neither peer-reviewed material nor detailed research regarding discipline of journalism. *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

Off-duty police officer's alleged "Al-Qaeda" statements to Lebanese nightclub patron were sufficient to demonstrate a racial motivation on their face for the supposed beating of patron by off-duty police officers at nightclub, as required for patron to bring claim against officers under District of Columbia Human Rights Act (DCHRA). *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

To sustain a claim of race discrimination under the District of Columbia Human Rights Act (DCHRA), plaintiff must prove intentional discrimination, which may be shown by direct or indirect evidence. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Legal standards applicable to race discrimination are the same under the District of Columbia Human Rights Act (DCHRA) and §§ 1981; both claims require proof of intentional discrimination, which may be shown by direct or indirect evidence. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

African-American former employee who sued former employer failed to establish that employer's unfavorable actions gave rise to inference of racial discrimination, as required to maintain claims under §§ 1981 and District of Columbia Human Rights Act (DCHRA); employee's speculative testimony did not identify any similarly situated persons outside protected class who had same performance problems that she did but were not terminated. *Fox*

v. Giaccia, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

Former client's claim that decision by District of Columbia Office of Bar Counsel not to initiate disciplinary proceedings against attorney was motivated by racial discrimination was not cognizable under District of Columbia Human Rights Act. *Nwachukwu v. Rooney*, 362 F.Supp.2d 183, 2005 U.S. Dist. LEXIS 3293 (2005).

Black former employee failed to show that she suffered adverse employment action, and thus, employee failed to establish prima facie case of race discrimination in violation of § 1981 or District of Columbia Human Rights Act, where employee was transferred to new position that required new responsibilities but employee retained salary, benefits and job grade. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *King v. Georgetown Univ. Hosp.*, 9 F.Supp.2d 4, 1998 U.S. Dist. LEXIS 8995 (1998).

Black former hospital employee failed to establish that hospital's proffered legitimate non-discriminatory reason for transferring her, hospital-wide plan to promote efficiency and improve patient care, was pretext for race discrimination in violation of § 1981 or District of Columbia Human Rights Act, where employee alleged that coemployee called her a witch and that decision to alter job responsibilities was made by group of white employees. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *King v. Georgetown Univ. Hosp.*, 9 F.Supp.2d 4, 1998 U.S. Dist. LEXIS 8995 (1998).

Even if District of Columbia Human Rights Act applied in prison context, Hispanic prisoners in District of Columbia's correctional institutions did not establish claim under Act; prisoners failed to prove existence of racially hostile environment or that institutions' programming or other decisions were based on Hispanic prisoners' race or national origin. D.C. Code 1981, § 1-2501 et seq. *Franklin v. District of Columbia*, 960 F. Supp. 394, 1997 U.S. Dist. LEXIS 5287 (1997), reversed by 163 F.3d 625, 333 U.S. App. D.C. 334, 1998 U.S. App. LEXIS 32514, 42 Fed. R. Serv. 3d (Callaghan) 1013 (1998) *supra*.

Employee did not demonstrate that her race was a factor in her discriminatory treatment so as to establish prima facie case with respect to her denial of promotion claim under § 1981 and District of Columbia Human Rights Act (DCHRA); basis for reprimand of employee for being late was not her race, employee was not deprived of opportunity to audition for promotion to director position, and instead of filling vacant director position, employer created part-time position which was filled by a minority. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*,

946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

— Religion, discrimination.

Muslim firefighter's allegations that he filed an internal complaint against a supervisor for stating firefighter would have to choose his religion or his job and that he was threatened with ramifications if he continued to pursue his complaint were sufficient to plead adverse employment action, as required for firefighter's retaliation claim under Title VII and D.C. Human Rights Act. *Ali v. D.C. Gov't*, 697 F.Supp.2d 88, 2010 U.S. Dist. LEXIS 27580 (2010).

Because District of Columbia Court of Appeals had not squarely addressed standard by which claims of religious discrimination were to be analyzed under District of Columbia Human Rights Act (DCHRA), it remained a novel issue of state law and thus was not for district court to decide what statements employee could have made in her deposition, absent explicit declaration that she had abandoned that claim, that would truly constitute abandonment of her claim of religious discrimination. *Lemmons v. Georgetown Univ. Hosp.*, 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655 (2007).

While imperfectly pled, amended complaint sufficed under liberal notice pleading standards to put employer on notice regarding claim of religious discrimination under District of Columbia Human Rights Act (DCHRA); complaint brought claim under statute forbidding, inter alia, religious discrimination and alleged that complainant was "suspended from her employment [for] refus[ing] to take [a] Mantoux PPD tuberculosis test on religious and medical grounds." *Lemmons v. Georgetown Univ. Hosp.*, 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655 (2007).

— Sexual orientation, discrimination.

Applying District of Columbia's human rights statute to bar Boy Scouts of America (BSA) from excluding two acknowledged homosexuals from adult leadership positions would violate BSA's First Amendment right of expressive association, where BSA had consistently expressed in position statements that avowed homosexuals were not to be Scout leaders, and both of the members in question had been active in gay and lesbian organizations in their community. *BSA v. D.C. Comm'n on Human Rights*, 809 A.2d 1192, 2002 D.C. App. LEXIS 607 (2002).

Refusal by marriage license bureau to issue marriage licenses to same-sex couples did not violate the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 to 1-2557. *Dean v. District of Columbia*, 653 A.2d 307, 1995 D.C. App. LEXIS 8 (1995).

Human Rights Act not only forbade discrimination against protected groups, such as sex-

ual orientation, but also forbade practices which had disparate impact upon protected classes, unless that practice had nondiscriminatory justification. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Dismissal.

Failure of plaintiffs to comply with District of Columbia municipal notice statute warranted dismissal of claims under the District of Columbia Human Rights Act (DCHRA) for unliquidated damages. *Giardino v. District of Columbia*, 252 F.R.D. 18, 2008 U.S. Dist. LEXIS 62499 (2008).

Disparate treatment or impact.

Black former employee failed to show that white employee to whom some of black employee's responsibilities were transferred was similarly situated to black employee, and thus, black employee failed to establish prima facie case of race discrimination in violation of § 1981 or District of Columbia Human Rights Act, where white employee's salary and rank were significantly lower than that of black employee and white employee took over ministerial duties. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *King v. Georgetown Univ. Hosp.*, 9 F.Supp.2d 4, 1998 U.S. Dist. LEXIS 8995 (1998).

A prima facie case of disparate treatment of terminated employee, under the District of Columbia Human Rights Act, requires that a "similarly situated" unprotected employee be identified as a comparator. D.C. Code 1981, § 1-2501 et seq. *Slaughter v. Howard Univ.*, 971 F. Supp. 613, 1997 U.S. Dist. LEXIS 12215 (1997), vacated without op. by, remanded without opinion by 172 F.3d 921, 335 U.S. App. D.C. 320, 1998 U.S. App. LEXIS 38402 (1998).

Employee is considered similarly situated to employment discrimination plaintiff for the purpose of showing disparate treatment when all of the relevant aspects of plaintiff's employment situation are nearly identical to those of the other employee, and similarity between the plaintiff and the other employee must exist in all relevant aspects of their respective employment circumstances, which include both their rank in the company and the alleged misconduct. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To be similarly situated for purposes of employment discrimination plaintiff's disparate treatment claim, plaintiff and the other employee must have engaged in the same conduct without such differentiating or mitigating circumstances that would distinguish their conduct or employer's treatment of them for it.

Hollins v. Fannie Mae, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Since employee was an officer of the corporation, nonofficers were not included in the class of similarly situated individuals for purposes of employee's disparate treatment claim; officer had different responsibilities from non-officer, and different standard of conduct was expected of him. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Proof of a claim of disparate treatment in employment under the Human Rights Act proceeds in three steps: first, the plaintiff must prove by a preponderance of the evidence a prima facie case of discrimination, the burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the employment action and, finally the employee must show that the employer's proffered reason was in fact a pretext for discrimination. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Duty to mitigate damages.

Unlawfully discharged nursing assistant did not exercise reasonable diligence in seeking alternative employment, in view of her testimony that during one and one-half years in which she was unemployed she had interviewed for only two nursing assistant positions and had not sought employment in any other capacity. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Educational institutions.

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associate members was not "educational institution" under statute prohibiting sex discrimination by educational institutions. D.C. Code 1978 Supp. §§ 6-2202(h), 6-2251. *United States Jaycees v. Bloomfield*, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

Election of remedies.

Election of remedies doctrine did not bar employee's claims under District of Columbia Human Rights Act (DCHRA); pursuant to work-share agreement between Equal Employment Opportunity Commission (EEOC) and District of Columbia Office of Human Rights (OHR), issuance of right to sue letter by EEOC afforded employee the right to pursue her claims under both Title VII and DCHRA. *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

Black employees were not entitled to add alleged violations of District of Columbia Hu-

man Rights Act to their claim of discriminatory practices filed under § 1981; District of Columbia Human Rights Act claims were neither beyond proper bounds of federal district court's subject matter jurisdiction, or were barred by applicable limitations period. *Fed. Rules Civ. Proc. Rule 12(b)(6)*, 18 U.S.C.; D.C. Code 1981, § 1-2501. *Brereton v. Communications Satellite Corp.*, 735 F. Supp. 1085, 1990 U.S. Dist. LEXIS 4358 (1990), appeal dismissed without opinion by 925 F.2d 488, 288 U.S. App. D.C. 257, 61 Fair Empl. Prac. Cas. (BNA) 1288 (1991).

Where employee of District of Columbia filed discrimination complaint with Office of Human Rights that resulted in finding of probable cause, but District of Columbia did not then issue notice of hearing, employee was justified in raising claim of violation of District of Columbia Human Rights Law directly in federal district court. D.C. Code 1981, §§ 1-2501 et seq., 1-2545, 1-2550. *McCormick v. District of Columbia*, 554 F. Supp. 640, 1982 U.S. Dist. LEXIS 16682 (1982).

Where employee withdrew discrimination complaint which he had filed with District of Columbia office of human rights, he was entitled to maintain judicial action. D.C. Code 1981, §§ 1-2501 et seq., 1-2554, 1-2556. *Held v. National R. Passenger Corp.*, 101 F.R.D. 420, 1984 U.S. Dist. LEXIS 20167 (1984).

African-American plaintiff's rejection of employer's unconditional offer of regional manager position, after employer had terminated plaintiff from his position as sales manager, was not reasonable, and thus, such rejection cut off employer's liability for back pay and front pay, in action for race discrimination under District of Columbia Human Rights Act (DCHRA); offer was prompt and it came before litigation was commenced, and employer told plaintiff, in response to his concern that he would not be treated fairly by employer in the future, that employer's grievance process would be available to address any such issues. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

An employer charged with unlawful employment discrimination in violation of District of Columbia Human Rights Act (DCHRA) can toll the accrual of back-pay and front-pay liability by unconditionally offering the claimant the job that he had been denied. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Professor who filed administrative complaint against university under District of Columbia Human Rights Act but failed to seek judicial review of adverse determination was not precluded, under doctrine of election of remedies, from seeking judicial redress for claims under that statute based on events that occurred after

she filed administrative complaint. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Plaintiff who failed to seek judicial review of administrative finding of no probable cause to believe that a violation of District of Columbia Human Rights Act (DCHRA) had occurred in her employment as university professor was barred by the doctrine of election of remedies from litigating the same DCHRA retaliation claim in court. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

District of Columbia Human Rights Act does not authorize complainant to bring suit on his or her own behalf if agency declines or fails to do so, but rather, filing of complaint with Office of Human Rights (OHR) constitutes election of remedies, and unless OHR dismisses complaint on grounds of administrative convenience, or complainant withdraws complaint before administrative decree is rendered, adverse decision by OHR effectively disposes of complainant's claim, subject to whatever judicial review may be available. D.C. Code 1981, §§ 1-2501 to 1-2557. *Simpson v. District of Columbia Office of Human Rights*, 597 A.2d 392, 1991 D.C. App. LEXIS 266 (1991).

Elements.

To sustain a disability discrimination claim under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), or the District of Columbia Human Rights Act (DCHRA), a plaintiff must show that (1) she suffered an adverse employment action (2) because of her disability. *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

To make out prima facie claim of retaliation under either District of Columbia Human Rights Act (DCHRA) or §§ 1981, employee must establish that (1) that she engaged in statutorily protected activity, (2) employer took an adverse personnel action, and (3) a causal connection existed between the two. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

To establish a prima facie case of age discrimination, under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), employee must show (1) that she was at least forty years of age, (2) that she suffered an adverse employment action, and (3) there was some reason to believe that adverse employment action was based on employee's age. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Under McDonnell Douglas framework, ultimate question is whether jury could infer discrimination based on a combination of (1) employee's prima facie case, (2) any evidence employee presents to challenge employer's proffered reasons for its decision, and (3) any additional evidence of discrimination that may be available to employee, e.g., independent evidence of discriminatory attitudes or statements attributable to employer. *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

Job applicant seeking to establish prima facie case of race discrimination under McDonnell Douglas framework must show that (1) she belongs to racial minority, (2) she applied and was qualified for job for which employer was seeking applicants, (3) despite her qualifications, she was rejected, and (4) after her rejection, position remained open and employer continued to seek applicants from persons of complainant's qualifications; test is not rigid and must be flexible and adjusted to facts of particular case. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

To establish prima facie case of discrimination under District of Columbia Human Rights Act (DCHRA), employee must show that he is member of a protected class, that he suffered adverse employment action, and that workers who are not members of the protected class were not subject to similar treatment. D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Under McDonnell Douglas test, complainant in Title VII trial must carry initial burden of establishing prima facie case of racial discrimination, which may be done by showing that he belongs to racial minority, that he applied and was qualified for job for which employer was seeking applicants, that, despite his qualifications, he was rejected, and that, after his rejection, position remained open and employer continued to seek applicants from persons of complainant's qualifications. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Schwartz v. Paralyzed Veterans of Am.*, 930 F. Supp. 3, 1996 U.S. Dist. LEXIS 9045 (1996).

To prove claims of employment discrimination in termination of employment, under the Civil Rights Act of 1964, § 1981, or the District of Columbia Human Rights Act, employee had to prove, by preponderance of the evidence, prima facie case consisting of four elements: that he belonged to a racial minority; that he was qualified for the position for which he was hired; that he was terminated; and that others

outside the protected group were treated differently. D.C. Code 1981, § 1-2501 et seq.; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981. *Gomez v. Trustees of Harvard University*, 677 F. Supp. 23, 1988 U.S. Dist. LEXIS 648 (1988).

Former employees' proposed amended complaint, seeking to add class claims against employer, contained sufficient allegations of numerosity, commonality, typicality, and adequate representation to raise plausible basis for pursuing class claims in action alleging employer had engaged in pattern and practice of gender discrimination and retaliation in violation of Title VII and the District of Columbia Human Rights Act (DCHRA). *Bush v. Ruth's Chris Steak House, Inc.*, 277 F.R.D. 214, 2011 U.S. Dist. LEXIS 117561 (2011).

To establish a prima facie case of age or race discrimination in violation of the District of Columbia Human Rights Act (DCHRA) with regard to her demotion and termination, employee was required to show (1) that she belonged to a protected class; (2) that she was qualified for the jobs from which she was demoted and terminated; (3) that her demotion and termination occurred despite her employment qualifications; and (4) that her demotion and termination was based on the characteristic that placed her in the protected class. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Exhaustion of administrative remedies.

District of Columbia's worksharing agreement with Equal Employment Opportunity Commission (EEOC) allowed District of Columbia employee to exhaust state administrative remedies, for purposes of filing claim under District of Columbia Human Rights Act, by filing ADA discrimination claim with EEOC. *Lee v. District of Columbia*, 733 F.Supp.2d 156, 2010 U.S. Dist. LEXIS 87474 (2010).

Discharged employees did not fail to exhaust their administrative remedies before bringing cause of action alleging discriminatory discharge following report of sexual harassment, even though District of Columbia Human Rights Act permitted aggrieved parties to file an administrative complaint or to bring a civil action in court, but not both, and even though the employees failed to obtain a "right to sue" notice from the Equal Employment Opportunity Commission (EEOC) before bringing suit; after employer filed motion for partial dismissal, the employees withdrew their administrative claims and amended their complaint to reflect that fact, and the EEOC issued the "right to sue" letters after the motion was filed. D.C. Code 1981, §§ 1-2501 et seq., 1-2556(a); Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq. *Rauh v. Coyne*, 744 F. Supp. 1186, 1990 U.S. Dist. LEXIS 10019

(1990), amended by 57 Fair Empl. Prac. Cas. (BNA) 1552 (D.D.C. Oct. 2, 1990).

Black female fire fighter with District of Columbia Fire Department was not required to exhaust her administrative remedies under District of Columbia Human Rights Act in order to bring federal civil rights action against fire department under federal civil rights statutes, so that three-year limitations period applicable to her civil rights action was not tolled while her claims were filed with District of Columbia Office of Human Rights. 42 U.S.C. §§ 1981, 1983; D.C. Code 1981, §§ 1-2501 et seq., 1-2512, 1-2543. *Deskins v. Barry*, 729 F. Supp. 1, 1989 U.S. Dist. LEXIS 15977 (1989).

District of Columbia Human Rights Act (DCHRA) does not authorize District of Columbia employees to file original actions in superior court; instead, they must first exhaust their administrative remedies. D.C. Code 1981, § 1-2501 et seq. *Roache v. District of Columbia*, 654 A.2d 1283, 1995 D.C. App. LEXIS 35 (1995).

Former police officer's failure to exhaust administrative remedies barred his claim under District of Columbia Human Rights Act (DCHRA) alleging that he was discharged based on his race, notwithstanding contention that local human rights agencies were understaffed and would not have acted promptly. D.C. Code 1981, § 1-2501 et seq. *Roache v. District of Columbia*, 654 A.2d 1283, 1995 D.C. App. LEXIS 35 (1995).

Hostile work environment.

Admissions financial advisor for hospital was not subjected to hostile work environment when she was reprimanded approximately every six months, was twice scolded by supervisor, was once told she was too old for job, had two other employees present during annual evaluation, was not allowed to attend unspecified meetings, and repair of her defective air conditioner was delayed; actions were not sufficiently severe to create hostile environment. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Isolated examples of harassment as well as employee's complaints of supervisor's tone of voice when addressing him did not create abusive or hostile working environment so as to be actionable under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

A plaintiff has a viable hostile environment claim under District of Columbia Human Rights Act (DCHRA) if she can demonstrate (1) that she is a member of a protected class, (2) that she has been subjected to unwelcome harassment, (3) that the harassment was based on membership in the protected class, and (4)

that the harassment is severe and pervasive enough to affect a term, condition, or privilege of employment. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Plaintiff has viable hostile work environment claim under District of Columbia Human Rights Act (DCHRA) if he can demonstrate that he is member of protected class, that he has been subjected to unwelcome harassment, that harassment was based on membership in protected class, and that harassment is severe and pervasive enough to affect term, condition, or privilege of employment. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

More than few isolated incidents must have occurred in order to establish hostile work environment claim under District of Columbia Human Rights Act (DCHRA); however, no specific number of incidents, and no specific level of egregiousness need be proved. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Test for hostile work environment discrimination under District of Columbia Human Rights Act (DCHRA) is not whether work has been impaired, but whether working conditions have been discriminatorily altered. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

In general.

District of Columbia Human Rights Act provision guaranteeing opportunity to participate equally in economic life of District protected only activities that were specifically enumerated within statute and did not include action based on wrongful termination of contract. D.C. Code 1981, § 1-2511. *Gersman v. Group Health Ass'n*, 931 F.2d 1565, 1991 U.S. App. LEXIS 8486 (C.A.D.C. 1991), vacated by, remanded by 502 U.S. 1068, 112 S. Ct. 960, 117 L. Ed. 2d 127, 1992 U.S. LEXIS 655, 60 U.S.L.W. 3519, 58 Empl. Prac. Dec. (CCH) P41300 (1992).

District of Columbia Human Rights Act prohibits only discrimination based on certain factors, including age. D.C. Code 1981, § 1-2501 et seq. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Corporation counsel's interpretation of the Human Rights Act is entitled to great weight,

although not binding on the Court of Appeals, particularly where council knew of counsel's construction, but did not reject that construction or negate it by amending the Act, and actually relied on counsel's construction in enacting subsequent legislation. D.C. Code 1981, §§ 1-2501 to 1-2557. *NOW v. Mutual of Omaha Ins. Co.*, 531 A.2d 274, 1987 D.C. App. LEXIS 438 (1987).

An employer cannot negotiate away an employee's statutory rights to equal pay. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Interference.

To establish a claim of interference under the District of Columbia Human Rights Act (DCHRA), a plaintiff must prove that (1) he engaged in protected activity under the DCHRA, or opposed practices made unlawful under the DCHRA, (2) he was subjected to adverse action, and (3) there is a causal nexus between the two. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Nightclub's alleged destruction of club surveillance tape from night of altercation between Lebanese nightclub patron and off-duty police officers as part of supposed conspiracy with officers was not adverse action under District of Columbia Human Rights Act (DCHRA), as required for patron to allege interference claim under DCHRA against off-duty police officer, although destruction impeded patron's ability to proceed in lawsuit; patron's claim to harm associated with loss of tape evidence was speculative since he never had opportunity to review contents of video. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Judicial estoppel.

Employee was judicially estopped from asserting retaliation claims against his former employer under Title VII and the District of Columbia Human Rights Act (DCHRA), since he failed to reveal the existence of the retaliation lawsuit in bankruptcy proceedings initiated after the suit was filed, he continued to hold himself out as a proper plaintiff in the retaliation suit, which was a position that was inconsistent with his pursuit of bankruptcy, he succeeded in hiding the inconsistency from the courts, and he set up a situation in which he could gain an advantage over his creditors by maintaining the suit without disclosing it in the bankruptcy proceedings. *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 2010 U.S. App. LEXIS 11032 (C.A.D.C. 2010).

Jurisdiction.

Federal court would exercise discretion in declining to retain supplemental jurisdiction

over District of Columbia Human Rights Act (DCHRA) claim, where it would not be in keeping with judicial economy or comity to maintain jurisdiction over the remaining state law claim after Age Discrimination in Employment Act (ADEA) claim had been dismissed. *Schuler v. PricewaterhouseCoopers, LLP*, 739 F.Supp.2d 1, 2010 U.S. Dist. LEXIS 100953 (2010), affirmed by 421 Fed. Appx. 1, 2011 U.S. App. LEXIS 9240 (D.C. Cir. 2011).

The most important factor in determining whether a court has subject matter jurisdiction over a claim filed pursuant to the District of Columbia Human Rights Act (DCHRA) is not whether the plaintiff was actually employed in the District of Columbia but whether the alleged discriminatory acts occurred in the District. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Employee's allegations that his former supervisor made racist threats and comments on a regular basis and that those acts of race discrimination largely occurred in the District of Columbia for a period of almost four years established a sufficient connection to the District of Columbia to provide district court with subject matter jurisdiction over employee's District of Columbia Human Rights Act (DCHRA) claim against his former employer and former supervisor, even though complaint alleged that discriminatory actions, such as employee's demotion and termination, occurred in Maryland. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Employee's employment discrimination action, brought in the District of Columbia, under the District of Columbia Human Rights Act (DCHRA), alleging his former employer and his former supervisor harassed him, removed him from his position as foreman, and laid him off because of race, could have been brought in the District of Maryland, and therefore district court for the District of Columbia had discretion to transfer the action to the district of Maryland; employer had its only office in Maryland, supervisor resided in, and worked out of employer's office in, Maryland, employer made the decision to terminate employee's employment in Maryland, and employee learned of his termination while working on a construction site in Maryland. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Limited contacts that non-resident company executives had with District of Columbia were not "separate from and in addition to" employee's allegedly unlawful termination, and thus tortious injury subsection of District of Columbia long-arm statute did not authorize personal jurisdiction over executives in former employee's discrimination action against employer and executives alleging violation of District of Co-

lumbia Human Rights Act, District of Columbia Family Medical Leave Act and Equal Pay Act. *D'Onofrio v. SFX Sports Group, Inc.*, 534 F.Supp.2d 86, 2008 U.S. Dist. LEXIS 11418 (2008).

Contacts of non-resident company executives with District of Columbia were in the course of employment, rather than based on personal contacts, and thus subsection of District of Columbia long-arm statute allowing personal jurisdiction over person transacting business in District did not authorize personal jurisdiction over executives in female former employee's discrimination action against employer and executives alleging violation of District of Columbia Human Rights Act, District of Columbia Family Medical Leave Act and Equal Pay Act. *D'Onofrio v. SFX Sports Group, Inc.*, 534 F.Supp.2d 86, 2008 U.S. Dist. LEXIS 11418 (2008).

Non-resident company executives did not have continuous and systematic contacts with District of Columbia, as required for federal district court to have general jurisdiction over two executives in their personal capacities in female former employee's discrimination action against employer and executives alleging violation of District of Columbia Human Rights Act, District of Columbia Family Medical Leave Act and Equal Pay Act; during relevant time period, both executives lived and worked in Texas, neither regularly did business with District of Columbia, and they did not solicit business within the District. *D'Onofrio v. SFX Sports Group, Inc.*, 534 F.Supp.2d 86, 2008 U.S. Dist. LEXIS 11418 (2008).

Following its dismissal of plaintiff's Title VII claims, the court would decline to exercise supplemental jurisdiction over plaintiff's remaining claims brought pursuant to District of Columbia Human Rights Act (DCHRA); preventing the DCHRA claims from continuing would be a more efficient discharge of judicial resources. *Bowers v. Janey*, 468 F.Supp.2d 102, 2006 U.S. Dist. LEXIS 45951 (2006), dismissed without prejudice by 2006 U.S. Dist. LEXIS 58161 (D.D.C. July 6, 2006).

Department of Commerce (DOC), a part of the federal government, cannot be sued under the District of Columbia Human Rights Act (DCHRA). *Jordan v. Evans*, 404 F.Supp.2d 28, 2005 U.S. Dist. LEXIS 35706 (2005), affirmed by 2006 U.S. App. LEXIS 6185 (D.C. Cir. Mar. 13, 2006).

Student's claims of national origin discrimination and retaliation under statute prohibiting discrimination against participant in program receiving federal financial assistance, and claims alleging university's retaliation and discrimination on same basis under District of Columbia Human Rights Act (DCHRA), derived from common nucleus of operative fact of circumstances surrounding student's alleged

plagiarism incident, so as to permit court to exercise supplemental jurisdiction over state law claims. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Employee's wrongful termination action under District of Columbia Human Rights Act, demanding damages of "not less than \$50,000" and removed by employer to federal court on proffered basis of diversity jurisdiction, had to be remanded; employer had not demonstrated that requisite \$75,000 amount in controversy existed, even when figures for back pay and medical expenses claimed for the first time in employee's responses to employer's interrogatories were added to minimum amount prayed for in complaint, and possibility case might be removable was insufficient to avoid remand. *Julien v. CCA of Tenn., Inc.*, 268 F.Supp.2d 19, 2003 U.S. Dist. LEXIS 10505 (2003).

District court lacked pendent jurisdiction to decide two African-American women's claims against restaurant of race and sex discrimination under District of Columbia law, where no substantial cause of action existed under federal civil rights statutes. D.C. Code 1981, § 1-2501 et seq. *Jackson v. Tyler's Dad's Place*, 850 F. Supp. 53, 1994 U.S. Dist. LEXIS 5282 (1994), affirmed without opinion by 107 F.3d 923, 323 U.S. App. D.C. 290, 1996 U.S. App. LEXIS 39890 (1996).

District court would not exercise jurisdiction over employee's remaining claim under District of Columbia Human Rights Statute following dismissal of employee's federal claims prior to trial. D.C. Code 1981, § 1-2501 et seq. *Byrd v. Pyle*, 728 F. Supp. 1, 1989 U.S. Dist. LEXIS 15854 (1989), remanded by 902 F.2d 962, 284 U.S. App. D.C. 136, 1990 U.S. App. LEXIS 14366, 31 Env't Rep. Cas. (BNA) 1233, 20 Env'tl. L. Rep. 20891, 53 Fair Empl. Prac. Cas. (BNA) 304 (1990).

Federal district court in Title VII racial discrimination action had pendent jurisdiction over claim brought under District of Columbia Human Rights Law. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *McCormick v. District of Columbia*, 554 F. Supp. 640, 1982 U.S. Dist. LEXIS 16682 (1982).

Dismissal of former employee's action against employer for sexual discrimination in violation of District of Columbia Human Rights Act (DCHRA) was not warranted on ground of forum non conveniens, even though decisions adverse to employee were made in Virginia and employer conducted much more business in Virginia than in District; employee's supervisor was a District resident, much of the alleged conduct occurred in District, and witnesses and evidence were at least as available in District as they were in Virginia. *Blake v. Prof'l Travel Corp.*, 768 A.2d 568, 2001 D.C. App. LEXIS 53

(2001), writ of certiorari denied by 534 U.S. 1115, 122 S. Ct. 923, 151 L. Ed. 2d 887, 2002 U.S. LEXIS 543, 70 U.S.L.W. 3463 (2002).

State courts have concurrent jurisdiction with federal courts over civil actions brought pursuant to Title VII. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

There is not a "nexus" test which plaintiffs bringing discrimination action under Human Rights Act must meet before a court may exercise jurisdiction over their claims, and while the Office of Human Rights may decide in its discretion not to entertain a complaint for administrative reasons, including lack of sufficient nexus to the District, the Superior Court cannot decline to consider a complaint which properly alleges the necessary jurisdictional facts. D.C. Code 1981, §§ 1-2501, 1-2556(a). *Matthews v. Automated Business Systems & Services, Inc.*, 558 A.2d 1175, 1989 D.C. App. LEXIS 100 (1989).

Law governing.

Fact that District of Columbia hair salon employee who lived in Virginia was not married to man with whom she had intimate relations and was in fact married to another man through arranged marriage did not defeat her allegation, in regard to sexual harassment claim under District of Columbia Human Rights Act (DCHRA), that salon owner's behavior led to a "loss of desire for intimacy" with her husband; while Virginia adultery statute had never been repealed, it did not pose bar to recovery. *Thong v. Andre Chreky Salon*, 634 F.Supp.2d 40, 2009 U.S. Dist. LEXIS 59463 (2009).

Action under District of Columbia Human Rights Act by former employee disabled by bipolar disorder, challenging employee benefit plan's disparate payment of long-term disability benefits for mental versus physical disabilities, "related to" benefit plan and thus was preempted by ERISA. Employee Retirement Income Security Act of 1974, § 2 et seq., 29 U.S.C. § 1001 et seq.; D.C. Code 1981, §§ 1-2501 et seq. *Fitts v. Fannie Mae*, 44 F.Supp.2d 317, 1999 U.S. Dist. LEXIS 4751 (1999), affirmed by 236 F.3d 1, 344 U.S. App. D.C. 310, 2001 U.S. App. LEXIS 448, 8 Accom. Disabilities Dec. (CCH) P8-174, 11 Am. Disabilities Cas. (BNA) 612, 25 Employee Benefits Cas. (BNA) 2058 (2001).

Fact that former employee who alleged that she had been discriminatorily terminated in violation of District of Columbia Human Rights Act sought to recover, in part, value of fringe benefits she lost and to regain her employment and benefits associated with it did not render her claim preempted by ERISA; therefore, removal of action to federal district court on ground that damages claim created federal

question was inappropriate. D.C. Code 1981, § 1-2501 et seq.; Employee Retirement Income Security Act of 1974, § 2 et seq., 29 U.S.C. § 1001 et seq. *Schultz v. National Coalition of Hispanic Mental Health & Human Services Organizations*, 678 F. Supp. 936, 1988 U.S. Dist. LEXIS 1414 (1988).

Regulations pertaining to Comprehensive Merit Personnel Act (CMPA) expressly exclude from the employee grievance procedures any allegations within jurisdiction of District of Columbia Office of Human Rights, and as a result, District employee seeking relief for discrimination must pursue remedies provided under the Human Rights Act, rather than the CMPA. D.C. Code 1981, §§ 1-601.1 et seq., 1-2501 to 1-2557. *Robinson v. District of Columbia*, 748 A.2d 409, 2000 D.C. App. LEXIS 73 (2000).

Limiting claims for emotional distress from sexual harassment to administrative remedy under Workers' Compensation Act would frustrate implementation of Human Rights Act, proscribing sex discrimination in workplace, not only by creating problems of judicial economy, but also by forcing party seeking relief under emotional distress label to settle for remedy out of keeping with kind of injury involved. D.C. Code 1981, § 1-2501 et seq. *Estate of Underwood v. National Credit Union Admin.*, 665 A.2d 621, 1995 D.C. App. LEXIS 168 (1995).

Human Rights Act does not abrogate common-law rights of injured individuals. D.C. Code 1981, §§ 1-2501 to 1-2557. *Newman v. District of Columbia*, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

Liability insurance.

Under District of Columbia law, discrimination exclusion in endorsement to commercial general liability (CGL) insurance policy, barring coverage for discrimination charges of any kind, precluded coverage for insured nightclub, in lawsuit brought by patron, alleging that he was singled out for abuse by insured's employees because of his ethnicity, and retaliated against, in violation of the District of Columbia Human Rights Act (DCHRA). *Essex Ins. Co. v. Night & Day Mgmt., LLC*, 536 F.Supp.2d 53, 2008 U.S. Dist. LEXIS 12896 (2008).

Notice of potential claim.

District of Columbia and executive director of its lottery waived protection of statute requiring that a plaintiff give notice of action against District of Columbia by failing to raise that statute as defense during three and one-half years that elapsed between filing of initial complaint and their motion to dismiss, in action brought by civil rights organization and disabled lottery players, alleging that they were denied access to lottery, in violation of Ameri-

cans with Disabilities Act (ADA), Rehabilitation Act, and the District of Columbia Human Rights Act. *Equal Rights Ctr. v. District of Columbia*, 741 F.Supp.2d 273, 2010 U.S. Dist. LEXIS 106559 (2010).

Former District of Columbia employee did not provide notice to the mayor of her claims for unliquidated damages arising from alleged violations of the District of Columbia Human Rights Act (DCHRA) in her termination, as required by District of Columbia law, where employee sent letter to her department's Equal Employment Opportunity Commission (EEOC) office and to the District's Office of Human Rights (OHR) via the internet, but not in writing to the mayor. *Blocker-Burnette v. District of Columbia*, 730 F.Supp.2d 200, 2010 U.S. Dist. LEXIS 82893 (2010).

Mortgagor did not provide adequate notice of his claim under District of Columbia Human Rights Act (DCHRA), as required notice pleading rule, by alleging his membership in protected class, by stating his race and ethnicity, and stating his "belief" that racial and ethnic discrimination motivated lender's actions toward him, after recounting lender's behavior without any factual allegations that addressed relevance of race and ethnicity. *Blocker-Burnette v. District of Columbia*, 730 F.Supp.2d 200, 2010 U.S. Dist. LEXIS 82893 (2010).

District of Columbia's mandatory notice statute applied to District of Columbia Human Rights Act (DCHRA) claims to the extent they sought unliquidated damages, but did not apply to DCHRA claims seeking equitable relief. *Byrd v. District of Columbia*, 538 F.Supp.2d 170, 2008 U.S. Dist. LEXIS 19118 (2008).

Complaint summary report created by District of Columbia police department after Lebanese nightclub patron complained of mistreatment in incident at nightclub with off-duty police officers provided notice of patron's potential claim under District of Columbia Human Rights Act (DCHRA), as required for patron to bring DCHRA action against District, although report did not make mention of patron's race or national origin; other documents including factual findings of police department's office of professional responsibility contained references to alleged discriminatory comments made by one officer. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

A plaintiff bringing claims under the District of Columbia Human Rights Act (DCHRA) for unliquidated damages is not excused from providing prior notice of the claims pursuant to the District of Columbia municipal notice statute. *Giardino v. District of Columbia*, 252 F.R.D. 18, 2008 U.S. Dist. LEXIS 62499 (2008).

Presumption.

Court could assume that prima facie case existed and proceed to pretext inquiry in inter-

ests of fairness and efficiency, in lawsuit brought by Asian Indian assistant professor under District of Columbia Human Rights Act (DCHRA) who alleged ethnicity discrimination based on failure to promote, where assistant professor demonstrated that he was qualified for professor position and university's arguments regarding his qualifications at prima facie and nondiscriminatory explanation stages were essentially identical. *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

In employment discrimination case under District of Columbia Human Rights Act (DCHRA), evidence that same supervisor who participated in employee's promotions, pay raises, and positive performance evaluations participated in termination of the employment would support permissible inference of non-discriminatory animus for the termination, but such inference was not mandatory. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Once the employee makes out a prima facie case of discrimination in violation of District of Columbia Human Rights Act (DCHRA), it raises a rebuttable presumption, under McDonnell Douglas burden-shifting analysis, that employer's conduct amounted to unlawful discrimination. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Once presumption of discrimination is raised by employee's prima facie showing, burden shifts to employer to rebut it by articulating some legitimate, nondiscriminatory reason for adverse employment action, and employer can satisfy its burden by producing admissible evidence from which trier of fact can rationally conclude that employment action was not motivated by discriminatory animus; employer need not persuade court that it was actually motivated by the proffered reasons. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer has met its burden of producing legitimate, nondiscriminatory reason for adverse employment action, the presumption of discrimination arising from employee's prima facie showing drops from the case, and from that point onward, employee must show both that employer's stated reason for adverse action is false and that discrimination is the real reason. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

The prima facie case established by employee in disparate treatment suit brought against employer under the Human Rights Act raises a presumption that the employer's action, if otherwise unexplained, was more likely than not based on a consideration of impermissible factors. D.C. Code 1981, §§ 1-2501 et seq.,

1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Prevailing party.

Although employee did not prevail on any of her claims under District of Columbia Human Rights Act (DCHRA), in light of her success on related promissory estoppel claim against employer and jury's award in her favor, employer was not a "prevailing party" for purposes of receiving an award of costs; however, individual defendants who prevailed on the DCHRA counts were prevailing parties entitled to an award of costs. D.C. Code 1981, § 1-2501 et seq.; Civil Rule 54(d). *Knight v. Georgetown Univ.*, 725 A.2d 472, 1999 D.C. App. LEXIS 20 (1999).

Public accommodations.

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associated members but which did not operate from any particular place was not "place of public accommodation" under statute prohibiting sex discrimination in places of public accommodation. D.C. Code 1978 Supp. §§ 6-2202(x), 6-2241(a)(1). *United States Jaycees v. Bloomfield*, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

Purpose.

The District of Columbia Human Rights Act (DCHRA) is not meant to cure all employment grievances. D.C. Code §§ 2-1401.01. *Luhrs v. Newday, LLC*, 326 F.Supp.2d 30, 2004 U.S. Dist. LEXIS 12758 (2004).

The Council of the District of Columbia intended to go above and beyond the protections afforded to employees by Title VII when it enacted the District of Columbia Human Rights Act (DCHRA); though courts cannot create new protected classes not identified by the legislature, courts must read the words of the DCHRA liberally consistent with the Act's sweeping statement of intent. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

District of Columbia Human Rights Act was primarily designed to protect from invidious discrimination those persons or groups who have traditionally been subjected to unfair treatment. D.C. Code 1981, § 1-2512. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Although heterosexuals are and should be covered by District of Columbia Human Rights Act (DCHRA), main purpose of sexual orientation provision was to ensure that homosexuals enjoy equal rights previously denied to them. D.C. Code 1981, § 1-2512. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

District of Columbia had compelling interest in eradicating discrimination on basis of sexual orientation. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Amendment of Human Rights Act to make specific reference to automobile insurance policies supported conclusion that Act was not intended to regulate pricing of insurance policies; amendment referring to automobile policies was limited to automobile insurance and did not refer to discrimination in insurance rates. D.C. Code 1981, §§ 1-2501 to 1-2557. NOW v. Mutual of Omaha Ins. Co., 531 A.2d 274, 1987 D.C. App. LEXIS 438 (1987).

The D.C. Human Rights Act protects particular classes rather than barring disparate treatment of any group. Ortner v. Paralyzed Veterans of Am., 120 WLR 193 (Super. Ct. 1992).

The City Council consciously chose not to make the language of the Human Rights Act applicable to regulation of the marital relationship. Ortner v. Paralyzed Veterans of Am., 120 WLR 193 (Super. Ct. 1992).

Questions for jury.

At termination of liability phase of collective pattern or practice age discrimination action, finder of fact must determine whether plaintiffs have met their burden of establishing by preponderance of evidence that employer engaged in pattern or practice of age discrimination. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. Hyman v. First Union Corp., 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Issues of whether university demonstrated that female employee's unequal pay was based on a factor other than sex, and whether employee's expert's assumptions and calculations of back pay should be accepted, were questions for the jury, with regard to employee's unequal pay claim against university under the District of Columbia Human Rights Act (DCHRA). George Washington Univ. v. Violand, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

That a plaintiff's alleged injury under the District of Columbia Human Rights Act (DCHRA) is predicated upon discrimination against a person other than himself presents a jury question as to whether an "unlawful discriminatory practice" occurred and whether the plaintiff was thereby "aggrieved"; it is not, however, a question of justiciability. D.C. Code 1981, § 1-2501 et seq. Executive Sandwich Shoppe, Inc. v. Carr Realty Corp., 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

In determining whether District of Columbia Human Rights Act (DCHRA) has been violated, trier of fact should consider amount and nature of conduct, plaintiff's response to such conduct, and relationship between harassing party and plaintiff. D.C. Code 1981, § 1-2501 et seq. Daka, Inc. v. Breiner, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

The Human Rights Act delegates to the factfinder the task of determining whether the asserted business purpose exists and, if so, whether safety regulations are uniformly applied and are reasonable. Kennedy v. Dixon, 119 WLR 2637 (Super. Ct. 1991).

Relation back rule.

Employee's Equal Employment Opportunity Commission (EEOC) claim alleging gender discrimination alleged all of the facts necessary to make out a claim under the District of Columbia Human Rights Act (DCHRA) for personal appearance discrimination, and thus the personal appearance claim related back to her original EEOC complaint and was not untimely filed. Ivey v. District of Columbia, 949 A.2d 607, 2008 D.C. App. LEXIS 259 (2008).

Where employee was not discharged until approximately two weeks after he filed original complaint charging denial of promotion on basis of race the "relation back" rule was not applicable to save the retaliatory discharge claim, notwithstanding that complaint charging discrimination promotion was timely. Civil Rule 15(c); D.C. Code 1973, § 6-2284(a). Davis v. Potomac Electric Power Co., 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Remedies.

Court may award prospective relief to plaintiffs in collective pattern or practice age discrimination action, if finder of fact determines that employer did engage in pattern or practice of discrimination. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. Hyman v. First Union Corp., 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Respect for the legislature and its enactments requires that the rights of a victim of non-physical sexual harassment be limited by the remedies which the legislature has provided in the District of Columbia Human Rights Act. Griffin v. Acacia Life Ins. Co., 925 A.2d 564, 2007 D.C. App. LEXIS 266 (2007).

Former employee's common law negligent supervision claim against employer could not be predicated on a violation of the District of Columbia Human Rights Act (DCHRA). Griffin v. Acacia Life Ins. Co., 925 A.2d 564, 2007 D.C. App. LEXIS 266 (2007).

Firefighter was entitled to back pay and reinstatement after being discharged for wearing beard and mustache, in light of evidence supporting administrative finding that fire department's facial hair regulation was discriminatory as applied to firefighter. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Even assuming that compensatory damages were available to public employees in District of Columbia under Mayor's Order governing public employees' rights under District of Columbia Human Rights Act (DCHRA), Court of Appeals would not disturb hearing examiner's determination firefighter discharged in violation of DCHRA was not entitled to compensatory damages and related attorney fees, on basis that meager record did not support such recoveries. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

In conjunction with hearing examiner's conclusion that fire department's facial hair regulation was discriminatory as applied to bearded firefighter, examiner did not exceed his authority in issuing proposal for modifying grooming regulations, since examiner's proposed modifications were prefaced by word "should" as opposed to other remedies which were prefaced by word "shall," and it was well within examiner's province to issue recommendations. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Ordinarily victim of discriminatory discharge is entitled to receive back pay, i.e., salary that she would have received from employer but for unlawful discriminatory acts; back pay award should equal salary complainant would have received from time of violation until date on which District of Columbia Commission of Human Rights issued its final order, minus complainant's actual interim earnings or amounts she would have earned had she diligently sought other work. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Complainants' employment of one month or less was short of duration of subsequent employment sufficient to break causal chain linking their wrongful termination with later joblessness, for purposes of determining employer's back pay liability. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Res judicata.

Res judicata barred employee's retaliation claims under Title VII and District of Columbia

Human Rights Act (DCHRA); employee had opportunity, and obligation, to amend his complaint to present those claims in prior litigation but failed to do so, and because prior lawsuit had not concluded before he was terminated, employee also had opportunity to file supplemental complaint to include retaliation claim based on the termination. *Coleman v. Potomac Elec. Power Co.*, 422 F.Supp.2d 209, 2006 U.S. Dist. LEXIS 17048 (2006), appeal dismissed by 2007 U.S. App. LEXIS 2338 (D.C. Cir. Jan. 31, 2007).

Res judicata barred former employee's retaliation and handicap discrimination claims against her former employer based on former employer's failure to reassign her within company, where former employee had been aware long before dismissal of her prior employment discrimination lawsuit that former employer had wanted to return her old job and that no similar position was open for reassignment. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Under doctrine of res judicata, former employee's prior employment discrimination lawsuit against her former employer did not bar her subsequent retaliation and handicap discrimination claims against her former employer based on her termination which occurred after end of prior litigation; termination was distinct enough from earlier transactions and occurrences to form basis for independent action. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Determination by District of Columbia Office of Human Rights which found that employment discrimination plaintiff had established prima facie case of discrimination and found probable cause to believe that his employer violated District of Columbia Human Rights Act was not entitled to preclusive effect; determination was result of nonadversarial, nonadjudicative, investigatory procedure, and OHR did not base its determination on identical facts which were before court. D.C. Code 1981, § 1-2501 et seq. *Rowe v. Kidd*, 731 F. Supp. 534, 1990 U.S. Dist. LEXIS 2194 (1990).

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil

rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Employee was not entitled to maintain claim seeking damages for intentional infliction of emotional distress under § 1983 or under District of Columbia Human Rights Act, where Human Rights Act claim was previously dismissed with prejudice and where employee failed to demonstrate that she had valid § 1983 claim against either municipality or superintendent. D.C. Code 1981, §§ 1-2501 et seq., 1-2553(a)(1)(D); 42 U.S.C. § 1983. *Harris v. District of Columbia*, 652 F. Supp. 154, 1986 U.S. Dist. LEXIS 18701 (1986).

Doctrine of administrative res judicata barred employment discrimination plaintiff's claims under Title VII, District of Columbia Human Rights Act [D.C. Code 1981, § 1-2501 et seq.] and 42 U.S.C. § 1981; procedures provided by District of Columbia Commission on Human Rights were essentially equivalent to judicial proceeding, judgment was final, and parties and claims were identical to those brought before agency. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, §§ 1-1509(b), 1-2552 to 1-2554. *Parker v. National Corp. for Housing Partnerships*, 619 F. Supp. 1061, 1985 U.S. Dist. LEXIS 16573 (1985), reversed by 46 Fair Empl. Prac. Cas. (BNA) 1638 (D.C. Cir. June 2, 1987), dismissed by 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380, 48 Fair Empl. Prac. Cas. (BNA) 890 (D.D.C. 1988).

Retaliation.

Police officer plausibly alleged adverse employment action element of her retaliation claims under Title VII and District of Columbia Human Rights Act (DCHRA), where she alleged that she was transferred from district where she had worked for approximately fifteen years to another district that was less desirable assignment and was farther from her home. *Craig v. District of Columbia*, 2012 WL 3126779 (2012).

Alleged threats made to nightclub employee that he should not proceed with complaint against nightclub after incident between Lebanese nightclub patron and bouncer and off-duty police officers were not adverse action for purposes of patron's retaliation claim against club under District of Columbia Human Rights Act (DCHRA), absent evidence that tangible harm was caused to patron from threats to employee. *Mazloun v. D.C. Metro. Police Dep't*, 522

F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

To state a prima facie claim for retaliation or interference under the District of Columbia Human Rights Act (DCHRA), a plaintiff must allege that: (1) he engaged in activity protected under the DCHRA, or opposed practices made unlawful under the DCHRA, (2) he was subjected to adverse action, and (3) there is a causal nexus between the two. *Mazloun v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

African-American laboratory technologist had not established prima facie case of retaliation against university hospital or Administrative Director of Department of Laboratory Medicine, under District of Columbia Human Rights Act (DCHRA) or §§ 1981; sole protected activity she alleged was her complaint of harassment against her supervisor, which alleged harassment generally and generically and did not refer to harassment or discrimination based on race or any other protected category recognized by either DCHRA or §§ 1981. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

For purposes of employment retaliation claims, temporal proximity between purported statutorily protected activity and adverse action must be very close to establish causal connection between two events. *Fox v. Giaccia*, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

For purposes of employment retaliation claims, employers are not obliged to suspend previously contemplated, though not yet definitively determined, actions in wake of employee's exercise of protected activity. *Fox v. Giaccia*, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

Causal connection component of retaliation claim under District of Columbia Human Rights Act (DCHRA) may be established by showing that: (1) employer had knowledge of employee's protected activity, and (2) adverse personnel action took place shortly after that activity. *Fox v. Giaccia*, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

Plaintiff claiming retaliation under District of Columbia Human Rights Act (DCHRA) must establish that: (1) he engaged in statutorily protected activity; (2) employer took adverse personnel action; and (3) causal connection existed between two events. *Fox v. Giaccia*, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

To establish prima facie case of retaliation, plaintiff must show that: (1) he engaged in protected activity, (2) employer took adverse personnel action, and (3) there was causal con-

nection between the two. *Taylor v. Washington Metro. Area Transit Auth.*, 109 F.Supp.2d 11, 2000 U.S. Dist. LEXIS 11575 (2000), affirmed by 2000 U.S. App. LEXIS 35427 (D.C. Cir. Dec. 20, 2000).

Under District of Columbia law, fact that employer demoted employee six years after employee reported safety incident was insufficient to establish causal connection between actions sufficient to support claim of retaliatory discharge. *Taylor v. Washington Metro. Area Transit Auth.*, 109 F.Supp.2d 11, 2000 U.S. Dist. LEXIS 11575 (2000), affirmed by 2000 U.S. App. LEXIS 35427 (D.C. Cir. Dec. 20, 2000).

To prevail on retaliatory discharge claim under District of Columbia Human Rights Act (DCHRA) and § 1981, plaintiff must establish: (1) that plaintiff engaged in statutorily protected activity; (2) that employer took adverse personnel action; and (3) that causal connection existed between the two. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

In order to establish constructive retaliatory discharge under District of Columbia Human Rights Act (DCHRA) and § 1981, plaintiff must show, not only discrimination, but also that employer deliberately made working conditions intolerable and drove employee to involuntarily quit. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Former employee was not constructively discharged in retaliation for making complaints of discrimination in violation of District of Columbia Human Rights Act (DCHRA) and § 1981, absent evidence of intolerable working conditions that would drive reasonable person to quit. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Employee did not demonstrate that business school's reasons for stopping employee who was on school premises after hours and inquiring about contents of the boxes he was carrying were pretextual so as to establish retaliation claim under § 1981 and District of Columbia Human Rights Act (DCHRA); fact that employee had filed lawsuit did not allow him to remove property from school's premises after hours without challenge nor did it license him to violate dress code and reporting requirements or to act in insubordinate manner and although employee alleged that others were permitted to dress in sweats and failed to report for work on time, employee offered no evidence in this regard. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career*

Blazers Learning Ctr., 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Filing of complaint, regardless of its merits, is a statutorily protected activity for purposes of retaliation claim under both § 1981 and District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Employee who participated in the "Million Man March" on Washington D.C. did not engage in statutorily protected activity and as such, he failed to make out a prima facie case of retaliation for participating in the March under either § 1981 or the District of Columbia Human Rights Act (DCHRA); the March was not a protest against unlawful discriminatory employment conditions he was experiencing, but rather was a day of national atonement by black men. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA) requires employee to show that he was engaged in statutorily protected activity or that he opposed practices made unlawful by DCHRA, that employer took adverse personal action against him, and that casual connection exists between the two. D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Employee established prima facie case of retaliation under both § 1981 and District of Columbia Human Rights Act (DCHRA); employee's filing lawsuit was a statutorily protected activity and adverse actions occurred within two weeks of employee's having filed lawsuit, raising inference that the retaliatory conduct complained of was proximately caused by the filing of the lawsuit. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Assuming that employee's expression of his belief that his termination was motivated by age discrimination was in fact cause of retaliation resulting in withdrawal of separation package that had originally been offered and refusal of further negotiations, that conduct was not protected activity under the ADEA and District of Columbia Human Rights Act (DCHRA), which were designed to prevent retaliation against active opposition to discriminatory practices, not against general discussion and informal comments on the matter. Age Discrimination in Employment Act of 1967, § 4(d), 29 U.S.C. § 623(d); D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996),

affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Even assuming that former employee's expression of his belief that his termination was motivated by age discrimination was protected activity under the ADEA and District of Columbia Human Rights Act (DCHRA), for purposes of a retaliation claim, former employee failed to show any adverse action entitling him to recover; withdrawal of separation benefits which employee claimed occurred because of his comments was not an adverse action given that official employer policy did not include an assurance of severance pay upon departure from company. Age Discrimination in Employment Act of 1967, § 4(d), 29 U.S.C. § 623(d); D.C. Code 1981, § 1-2501 et seq. Paquin v. Fannie Mae, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

In order to prove retaliation under District of Columbia Human Rights Act Statute, plaintiff must show that she was engaged in protected activity, that employer took adverse action, and that there was causal connection between the two. D.C. Code 1981, § 1-2501 et seq. Saunders v. George Washington University, 768 F. Supp. 843, 1991 U.S. Dist. LEXIS 14115 (1991).

Prima facie case of retaliatory discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., requires showing that plaintiff was engaged in statutorily protected activity, that employer took adverse personnel action, and that causal connection existed between the two. Thompson v. International Asso. of Machinists & Aerospace Workers, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Employees alleging retaliation under anti-discrimination statutes must demonstrate that (1) they engaged in statutorily protected activity, (2) the employer took an adverse employment action against them, and (3) a causal connection existed between the two. Lemmons v. Georgetown Univ. Hosp., 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655 (2007).

In a retaliation claim, the employee need only prove she had a reasonable good faith belief that the practice she opposed was unlawful under the District of Columbia Human Rights Act (DCHRA), not that it actually violated the Act. Vogel v. D.C. Office of Planning, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Former employee failed to present prima facie claim of retaliation on the part of em-

ployer for not hiring employee for travel services assistant position after her original position was terminated; no evidence was presented that hiring supervisor knew of former employee's equal employment opportunity (EEO) complaint at the time of the failure to hire, and employee acknowledged that she did not know for a fact whether the supervisor knew about the complaint. Brown v. NAS, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

Former employee failed to present reliable evidence supporting prima facie claim that employer's failure to rehire employee for certain jobs after she was discharged was discriminatory and retaliatory; former employee provided no evidence of the required qualifications for those jobs such as educational level or particular skills, who the respective decision makers were, whether the decision makers were aware of the former employee's equal employment opportunity (EEO) complaint, or the race, age, gender or national origin of those who were hired. Brown v. NAS, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

Employee did not establish that employer terminated him in retaliation for his publishing reports about employer's promotion practices, given that employee failed to show that he was fired shortly after publication of reports and failed to show how they might otherwise be related to his termination. Hollins v. Fannie Mae, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Causal connection between protected activity and adverse employment action, which is one of requirements for retaliation claim, may be established by showing that employer had knowledge of employee's protected activity and that adverse personnel action took place shortly after that activity. Hollins v. Fannie Mae, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To establish prima facie case of retaliation, employee had to demonstrate that he was engaged in statutorily protected activity, that employer took adverse action against him, and that there was causal relationship between protected activity and the adverse action. Hollins v. Fannie Mae, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Review.

Dismissal of plaintiff's claims under Title VII and District of Columbia Human Rights Act (DCHRA) was warranted; because plaintiff failed to address arguments related to these counts in his brief in opposition to motion to dismiss, such arguments were treated as conceded. Abderrahim Tnaib v. Document Techs., LLC, 450 F.Supp.2d 87, 2006 U.S. Dist. LEXIS 67365 (2006).

District court would not construe Joint Statement of the Case or employee's deposition testimony as formal motion for leave to amend her

complaint under Federal Rules to withdraw or dismiss her claim of religious discrimination under District of Columbia Human Rights Act (DCHRA). *Lemmons v. Georgetown Univ. Hosp.*, 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655 (2007).

In reviewing employment discrimination cases under District of Columbia Human Rights Act (DCHRA), court applies familiar burden-shifting test set forth by United States Supreme Court in *McDonnell Douglas Corp. v. Green* for cases under Title VII of federal Civil Rights Act of 1964, under which test: (1) employee must first make prima facie showing of racial discrimination; (2) if employee succeeds in meeting that burden, burden shifts to employer who must then articulate some legitimate, nondiscriminatory reason for its employment action; and (3) burden then shifts back to employee to show that employer's stated reason was in fact pretext to cover up racially discriminatory decision. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Owner of employment agency waived his right to challenge on appeal, in sex discrimination action, sufficiency of evidence to establish that his company was "employment agency" within meaning of District of Columbia Human Rights Act (DCHRA) or that his alleged actions were "discriminatory practice" within meaning of DCHRA, though owner had moved for directed verdict at close of plaintiffs' case, where owner did not renew that motion or move for directed verdict at close of all evidence. D.C. Code 1981, §§ 1-2501 to 1-2557; Civil Rule 50. *Molovsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Because of unresolved issues of damages, and because issues raised might otherwise evade appellate review, former fire department employee's claim for equitable relief, seeking reinstatement of administrative finding that department's grooming regulations violated District of Columbia Human Rights Act, was not rendered moot by employee's taking disability retirement prior to time trial court rendered its decision, in which court reinstated administrative finding but denied employee's claims for compensatory damages, attorney fees, and sanctions. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Where appellate court ruled that appeal was limited to trial court order dismissing amended complaint charging retaliatory discharge for filing a complaint under the Human Rights Act, appellant's request that the court reverse trial court's holding on original complaint that failure to promote was not unlawful was not properly before reviewing court. D.C. Code 1973, § 6-2201 et seq. *Davis v. Potomac Electric*

Power Co., 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Right to trial by jury.

Former employee suing for employment discrimination under District of Columbia Human Rights Act was entitled to jury trial. D.C. Code 1981, §§ 1-2501 et seq., 1-2512; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq. *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Claim of discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., calls for jury trial, as such claims seek compensatory damage, a form of legal relief. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Similarly situated.

Employee, the former driver of a university president who was on probation at time of his termination, was not similarly situated to former drivers as required for prima facie wrongful termination claim under Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA), absent evidence of previous drivers' conduct during their probationary periods. *Green v. Am. Univ.*, 647 F.Supp.2d 21, 2009 U.S. Dist. LEXIS 74386 (2009).

Single employer doctrine.

"Control" required to meet test of centralized control under single-employer doctrine in hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981, is not potential control, but rather actual and active control of day-to-day labor practices. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Evidence was insufficient to show centralized control of labor of parent company and two subsidiaries to satisfy single-employer doctrine in former employee's hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981; although there was regional manager and general manager for both subsidiaries, each had separate employees and employment practices that dictated hiring, firing, and disciplining. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Fact that parent company owned two subsidiaries was insufficient to satisfy single-employer doctrine in former employee's hostile work environment claim against subsidiaries under District of Columbia Human Rights Act (DCHRA) and § 1981, absent showing that parent company exercised significant measure

of financial control over subsidiaries. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Single-employer doctrine did not apply to parent company and its two subsidiaries in former employee's hostile work environment claims under § 1981 and District of Columbia Human Rights Act (DCHRA), absent showing of companies' interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Standing.

Supervisors, in their individual capacities, may be held liable for their acts of discrimination under the District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2501 et seq. *Russ v. Van Scoyoc Assocs.*, 59 F.Supp.2d 20, 1999 U.S. Dist. LEXIS 11645 (1999).

Chapter 7 debtor had standing to pursue appeal of judgment in favor of debtor's former employer on debtor's retaliation claims under Title VII and the District of Columbia Human Rights Act (DCHRA), where trustee of the bankruptcy estate abandoned the estate's claims in the case while appeal was pending. *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 2010 U.S. App. LEXIS 11032 (C.A.D.C. 2010).

On employee's appeal from district court order compelling arbitration of employee's discrimination claims, defendant employer would not be prejudiced by dismissal, on employee's request, of all defendants except for employer, since employer's potential liability to plaintiff under District of Columbia Human Rights Act was not affected in any way by absence of the other defendants, which included related companies and plaintiff's supervisor. D.C. Code 1981, § 1-2501 et seq. *Gardner v. Benefits Communs. Corp.*, 175 F.3d 155, 1999 U.S. App. LEXIS 2700 (C.A.D.C. 1999).

Disabled District of Columbia lottery players, who depended on motorized wheelchairs, alleged injury that was both concrete and particularized and actual or imminent, as required for players to have standing to bring claims under Americans with Disabilities Act (ADA), Rehabilitation Act, and District of Columbia Human Rights Act against District of Columbia and lottery's executive director, where complaint stated that players often waited outside their most convenient lottery locations for long periods of time and had to ask for assistance from others in order to enter those locations, and that they faced increased risks to their personal safety because they had to wait in neighborhoods populated with prostitutes and drug addicts. *Equal Rights Ctr. v. District of*

Columbia, 741 F.Supp.2d 273, 2010 U.S. Dist. LEXIS 106559 (2010).

Alleged injuries suffered by disabled District of Columbia lottery players, who depended on motorized wheelchairs, including not being able to access their preferred lottery locations, were redressable, as required for players to have standing to bring claims under Americans with Disabilities Act (ADA), Rehabilitation Act, and District of Columbia Human Rights Act against District of Columbia and lottery's executive director; favorable finding for players would at least have effect of forcing defendants to increase accessibility of lottery, and although program with greater accessibility might not guarantee that players could participate in lottery without impediment at every lottery location, it would reduce if not eliminate players' need to subject themselves to safety risks or to rely on others for help at so many of the locations they wished to access. *Equal Rights Ctr. v. District of Columbia*, 741 F.Supp.2d 273, 2010 U.S. Dist. LEXIS 106559 (2010).

Members of District of Columbia Lottery & Charitable Games Control Board had no private right of action against District Financial Responsibility and Management Assistance Authority under District of Columbia Human Rights Act to challenge order requiring all Lottery Board personnel to report to chief financial officer of District rather than to Lottery Board. D.C. Code § 1-2501 et seq. *Brewer v. D.C. Fin. Responsibility & Mgmt. Assistance Auth.*, 953 F. Supp. 406, 1997 U.S. Dist. LEXIS 892 (1997), affirmed without opinion by 132 F.3d 1480, 328 U.S. App. D.C. 134, 1997 U.S. App. LEXIS 40261 (1997).

President and principal shareholder who sought to recover for emotional injury after witnessing termination of corporation's contract because president was Jewish had no standing to maintain action under civil rights statute giving equal right to make and enforce contracts or under District of Columbia Human Rights Act. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

For standing under the District of Columbia Human Rights Act (DCHRA), the plaintiff needs to allege a minima of injury in fact, and the Court of Appeals lacks the authority to create prudential barriers to standing under the DCHRA. U.S. Const. Art. 3, § 1 et seq.; D.C. Code 1981, § 1-2501 et seq. *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Statute of limitations.

Thirty-day time limit for filing notice of appeal from judgment in favor of employer on

Chapter 7 debtor's Title VII and District of Columbia Human Rights Act (DCHRA) retaliation claims was tolled by bankruptcy trustee's filing of motion to amend the judgment to clarify that judicial estoppel only applied if the debtor elected to pursue the retaliation claims in his own right. *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 2010 U.S. App. LEXIS 11032 (C.A.D.C. 2010).

Suit charging former employer with violations of District of Columbia's Human Rights Law and with violations of federal statute governing equal rights under the law and conspiracy to interfere with civil rights was subject only to applicable statute of limitations in District of Columbia, allowing such actions to be brought within three years of harm giving rise to cause of action. D.C. Code 1981, §§ 1-2550 et seq., 12-301(8); 42 U.S.C. §§ 1981, 1985. *Gordon v. National Youth Work Alliance*, 675 F.2d 356, 1982 U.S. App. LEXIS 20483 (C.A.D.C. 1982).

Metropolitan Police Department (MPD) officer's filing of Equal Employment Opportunity Commission (EEOC) charged tolled one-year statute of limitations for her claims under District of Columbia Human Rights Act (DCHRA). *Craig v. District of Columbia*, 2012 WL 3126779 (2012).

Black employee's complaint alleged timely filing of charge of disparate-impact predicated on job-assignment, based on theory that employer's initial job-assignment had disparate impact on African-Americans and that she was subjected to that policy each time her job performance was evaluated, the last evaluation having occurred within governing statutes of limitations periods. *Young v. Covington & Burling LLP*, 736 F.Supp.2d 151, 2010 U.S. Dist. LEXIS 94579 (2010).

Employee's timely filing of a charge with the Equal Employment Opportunity Commission (EEOC), which in turn cross-filed with the District of Columbia Office of Human Rights (DCOHR) pursuant to a worksharing agreement, tolled the one-year statute of limitations for filing a private cause of action under the District of Columbia Human Rights Act (DCHRA). *Ibrahim v. Unisys Corp.*, 582 F.Supp.2d 41, 2008 U.S. Dist. LEXIS 86722 (2008).

Three-year statute of limitations on personal injury actions in District of Columbia, rather than one-year statute of limitations provided by District of Columbia Human Rights Act, applied to motorists' Americans with Disabilities Act (ADA) claim against various District of Columbia officials arising out of the investigation of motor vehicle accident. *Williams v. Savage*, 538 F.Supp.2d 34, 2008 U.S. Dist. LEXIS 17682 (2008).

Statute of limitations under District of Columbia Human Rights Act was tolled during

pendency of action before Office of Human Rights. D.C. Code 1981, §§ 1-2501 et seq., 1-2525. *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Most appropriate local cause of action from which to adopt a single limitations period for § 1981 actions brought in District of Columbia is the District's Human Rights Act, which provides for separate civil causes of action for discrimination in employment, real estate transactions, etc., i.e., remedies which substantially overlap or duplicate the remedies provided by § 1981; in setting the one-year limitation period for the District of Columbia act the local legislature necessarily took into account the practicalities that are involved in litigating federal civil rights claims and policies that are analogous to goals of the Civil Rights Acts. 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2501 to 1-2557. *Pender v. National R. Passenger Corp.*, 625 F. Supp. 252, 1985 U.S. Dist. LEXIS 13890 (1985), reversed by 809 F.2d 926, 258 U.S. App. D.C. 85, 1987 U.S. App. LEXIS 1310, Copy. L. Rep. (CCH) P26054, 1 U.S.P.Q.2d (BNA) 1650 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 3012 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 2960 (1987).

Selecting one-year limitations period of District of Columbia Human Rights Act as applicable limitations statute in a § 1981 suit was not inappropriate because the same limitations period applies to administrative remedies under the statute. 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2501 to 1-2557. *Pender v. National R. Passenger Corp.*, 625 F. Supp. 252, 1985 U.S. Dist. LEXIS 13890 (1985), reversed by 809 F.2d 926, 258 U.S. App. D.C. 85, 1987 U.S. App. LEXIS 1310, Copy. L. Rep. (CCH) P26054, 1 U.S.P.Q.2d (BNA) 1650 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 3012 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 2960 (1987).

Public employee's civil rights claim was barred by one-year limitation period applicable to actions brought under District of Columbia human rights law. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Foster v. National R. Passenger Corp.*, 610 F. Supp. 881, 1985 U.S. Dist. LEXIS 19215 (1985).

Hostile work environment claim concerns a single unlawful practice which is treated as an indivisible whole for purposes of the limitations period, even if an initial portion of that claim accrued outside the limitations period. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Even if there are significant gaps in the occurrence of acts constituting the hostile work

environment claim, the filing of that claim still may be timely because this type of unlawful employment practice cannot be said to occur on any particular day, and instead, it occurs over a series of days or perhaps years. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

With respect to statute of limitations consideration, it does not matter that some of the component acts of the hostile work environment fall outside the statutory time period. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

One-year statute of limitations period for former employee's action for discriminatory and retaliatory discharge began to run at the time employee was terminated, where employee testified that her own immediate conclusion after being discharged was that her termination was discriminatory. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

One-year statute of limitations applicable to constructive discharge action brought under the District of Columbia Human Rights Act began to run on date that employee decided to retire and gave employer notice of that decision, rather than on date that retirement became effective for payroll purposes, as any discriminatory act constituting basis of claim had to have occurred before date employee decided to retire and announced his decision. D.C. Code 1981, §§ 1-2501 et seq., 1-2544(a). *Hancock v. Bureau of Nat'l Affairs*, 645 A.2d 588, 1994 D.C. App. LEXIS 114 (1994).

Employees claim of discrimination began to run on date of termination where she did not allege any separate acts of discrimination after that date with respect to the grievance process. D.C. Code 1981, § 1-2544(a). *Jones v. Howard University*, 574 A.2d 1343, 1990 D.C. App. LEXIS 111 (1990).

Employee's discharge was complete and started running of statute of limitations on civil rights claim even though grievance proceedings remained and could have resulted in her reinstatement. *Jones v. Howard University*, 574 A.2d 1343, 1990 D.C. App. LEXIS 111 (1990).

Time limit of 30 days within which to appeal from dismissal of police officer's claims for employment discrimination, intentional infliction of emotional distress, and breach of contract did not begin to run from date of dismissal order that was later vacated due to clerical error. D.C. Code 1981, §§ 1-2501 to 1-2557; Court of Appeals Rule 4(a)(1). *Newman v. Dis-*

trict of Columbia, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

Doctrine of continuing violation was not applicable so as to state claim of retaliatory discharge from one-year limitations provision of Human Rights Act. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

One-year limitations period of Human Rights Act applies to administrative proceedings as well as to actions at law based on the Act. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Stipulations.

For purposes of establishing a prima facie case of sexual harassment, the employee may demonstrate that she is a member of a protected class by simple stipulation of the employee's gender. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Summary judgment.

Material fact question regarding whether requested motorized cart was reasonable accommodation that would allow employee to work as sales representative precluded summary judgment on claim of disability discrimination under District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq.; Fed. Rules Civ. Proc. Rule 56, 18 U.S.C. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Genuine issue of material fact as to whether employee's former employer, a university, as well as its president, were on notice of employee's disability during his employment with university precluded summary judgment on employee's claim that university and its president failed to accommodate his disability and wrongfully terminated him in violation of the Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA). *Green v. Am. Univ.*, 647 F.Supp.2d 21, 2009 U.S. Dist. LEXIS 74386 (2009).

Genuine issue of material fact as to whether terminated employee had qualifying disability during his employment by university as driver for university president precluded summary judgment on employee's claim that university and its president failed to accommodate his disability and wrongfully terminated him in violation of the Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA). *Green v. Am. Univ.*, 647 F.Supp.2d 21, 2009 U.S. Dist. LEXIS 74386 (2009).

Genuine issue of material fact as to whether, and to what extent, teacher who had degenerative arthritis was substantially limited in a major life activity precluded summary judgment in teacher's action against her employer, the District of Columbia, on the issue of whether teacher was a qualified individual with a disability under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), and the District of Columbia Human Rights Act (DCHRA). *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

Genuine issue of material fact as to whether District of Columbia refused to permit its employee, a teacher, to return to work precluded summary judgment on teacher's disability discrimination claims against District under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), and the District of Columbia Human Rights Act (DCHRA). *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

Retired teacher formerly employed by District of Columbia conceded that her claims against the District under the District of Columbia Human Rights Act (DCHRA) were limited to events that occurred in the time period specified by the District in support of its motion for summary judgment, where teacher failed to respond to District's argument on the limitations issue in any of her filings, including those in response to District's earlier motions for summary judgment. *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

The "law of the case" doctrine did not preclude on-duty police officers' renewed summary judgment motion on Lebanese nightclub patron's District of Columbia Human Rights Act (DCHRA) claims against them arising from altercation with off-duty police officers at nightclub; motion was supported by additional deposition testimony by officers directly responsive to disputed factual issues identified in court's prior memorandum opinion. *Mazloum v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Genuine issue of material fact existed regarding whether off-duty police officers used racial slurs during encounter with Lebanese nightclub patron after witnessing altercation between nightclub bouncer and patron, precluding summary judgment on issue of officers' violation of District of Columbia Human Rights Act in patron's civil rights action against officers. *Mazloum v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

Female Library of Congress employee's proffered testimony from coworkers and former workers regarding her demeaning treatment by supervisor compared to that of male coworkers,

as well as testimony concerning supervisor's alleged discriminatory actions toward other female employees, created fact issue as to frequency and pervasiveness of alleged conduct, how it interfered with employee's performance of her duties, and how it affected her psychologically, precluding summary judgment in employee's hostile work environment/sexual harassment Title VII claim against government. *Higbee v. Billington*, 246 F.Supp.2d 10, 2003 U.S. Dist. LEXIS 2524 (2003).

Female Library of Congress employee's proffered testimony from coworkers regarding her demeaning treatment by supervisor compared to that of male coworkers, as well as direct evidence of discriminatory animus from other female employees who had worked under same supervisor, created fact issue as to whether government's proffered non-discriminatory reasons for differing treatment of employee, i.e. her less-than-outstanding performance evaluations, failure to perform all duties in her position description, and ultimate departure in reduction in force (RIF), were pretextual, precluding summary judgment in employee's Title VII sexual discrimination action against government. *Higbee v. Billington*, 246 F.Supp.2d 10, 2003 U.S. Dist. LEXIS 2524 (2003).

While summary judgment must be approached with special caution in employment discrimination cases, and the court must be extra-careful to view all the evidence in the light most favorable to a plaintiff, the plaintiff is not relieved of her obligation to support her allegations by affidavits or other competent evidence showing that there is a genuine issue for trial. *Jose v. Hospital for Sick Children*, 130 F.Supp.2d 38, 2000 U.S. Dist. LEXIS 20216 (2000).

If defendant in an employment discrimination suit provides evidence of a legitimate non-discriminatory reason, the plaintiff must then bring forward evidence of the pretextual nature of the legitimate non-discriminatory purpose posited by the defendant to avoid summary judgment; evidence of discrimination that is merely colorable, or not significantly probative cannot prevent the issuance of summary judgment. *Jose v. Hospital for Sick Children*, 130 F.Supp.2d 38, 2000 U.S. Dist. LEXIS 20216 (2000).

In former employee's action alleging that employer removed him from payroll for filing discrimination complaint with Equal Employment Opportunity Commission (EEOC), in violation of ADEA and District of Columbia Human Rights Act (DCHRA), fact questions as to whether employer knew that employee had filed EEOC charge when it removed employee from payroll precluded employer's summary judgment motion asserting that there was no causal connection between termination and filing of EEOC charge. *Age Discrimination in*

Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 12 F.Supp.2d 15, 1998 U.S. Dist. LEXIS 13137 (1998).

Material issues of fact as to whether employers took appropriate remedial action in response to former employee's complaints of racial discrimination, precluded summary judgment for employers on former employee's claim of hostile work environment under § 1981 and District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Because discriminatory intent and proof of disparate treatment are difficult to establish in civil rights action, courts must view summary judgment with special caution and must be particularly careful to view all of evidence in light most favorable to employee. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq.; Fed.Rules Civ.Proc.Rule 56(c), 18 U.S.C. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

If reasonable fact finder could infer discrimination based on evidence submitted, then summary judgment is inappropriate in civil rights action. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq.; Fed.R.Civ.Proc. Rule 56(c), 18 U.S.C. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

Summary judgment could not be granted on individualized claims of age discrimination, where both individual and collective pattern or practice age discrimination claims had been brought, and collective claims had not yet been resolved. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2501 et seq. *Hyman v. First Union Corp.*, 980 F. Supp. 46, 1997 U.S. Dist. LEXIS 16034 (1997).

Discharged black employee failed to state claim for disparate impact under Title VII; employee failed to identify specific neutral practice or policy that had disproportionate impact on blacks, and failed to allege that employer's disciplinary and discharge policies were "applied equally" to all employees or that they "necessarily operated" to discriminate against black employees. D.C. Code 1981, § 1-2501 et seq. *Rowe v. Kidd*, 731 F. Supp. 534, 1990 U.S. Dist. LEXIS 2194 (1990).

Especially when opposing a motion for summary judgment, plaintiff's burden of making out a prima facie employment discrimination case is de minimis. D.C. Code 1981, § 1-2501 et seq.; Fed.R.Civ.Proc. Rules 56, 56(c), 18 U.S.C.;

Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981. *Gomez v. Trustees of Harvard University*, 677 F. Supp. 23, 1988 U.S. Dist. LEXIS 648 (1988).

In employment discrimination action by terminated employee, there were issues of fact, precluding summary judgment, as to whether employee was qualified for his position and whether asserted reasons for discharge were pretextual. D.C. Code 1981, § 1-2501 et seq.; Fed.R.Civ.Proc. Rules 56, 56(c), 18 U.S.C.; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981. *Gomez v. Trustees of Harvard University*, 677 F. Supp. 23, 1988 U.S. Dist. LEXIS 648 (1988).

African-American former laboratory employee was not entitled to reconsideration of district court order granting summary judgment for employer on her retaliation claim based on her failure to demonstrate she had been subjected to pattern of retaliatory acts because of activity protected under District of Columbia Human Rights Act (DCHRA) and §§ 1981; employee fundamentally misstated grounds for district court's grant of summary judgment, neither document she submitted in support of her motion for reconsideration amounted to anything resembling new evidence that was likely to change outcome of case, and there was no intervening change of controlling law or need to correct clear error or prevent manifest injustice sufficient to grant motion to alter or amend judgment, let alone meet more demanding standard for relief from judgment or order. *Lemmons v. Georgetown Univ. Hosp.*, 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655 (2007).

Unequal pay.

For purposes of an unequal pay claim under the District of Columbia Human Rights Act (DCHRA), alleging that employer paid different wages to employees of opposite sexes for equal work on jobs requiring equal skill, effort, and responsibility, "skill" includes consideration of such factors as experience, training, education and ability, and "responsibility" involves the degree of accountability required in the performance of the job; the controlling factor is not job title but job content—the actual duties that the respective employees are called upon to perform. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

The phrase "equal work," in a claim alleging unequal pay under the District of Columbia Human Rights Act (DCHRA), does not require that the jobs be identical, but only that they be substantially equal. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

Under the District of Columbia Human Rights Act (DCHRA), a plaintiff who alleges that she was unlawfully paid less than a man

must establish that the employer pays different wages to employees of opposite sexes for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

Venue.

In employee's employment discrimination action under the District of Columbia Human Rights Act (DCHRA), venue was proper in the District of Columbia, rather than the District of Maryland; action was originally brought in District of Columbia, and the scales balancing the public and private interests either tilted slightly toward venue in the District of Columbia or were in equipoise, as material events occurred in both districts, the geographic distance between the courthouses was small, making it unlikely that a transfer would materially affect the convenience of the parties or witnesses, or the ability to obtain sources of proof, District of Columbia court might have been more familiar with the law governing employee's DCHRA claim, and each district shared some local interest in deciding the case. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Weight and sufficiency of evidence.

— In general.

Error in excluding employee's rebuttal evidence, offered on redirect examination in employee's disability discrimination action, concerning why employee never complained to supervisor's superior after supervisor allegedly denied her request to use a motorized cart, was harmless, since it constituted weak state-of-mind evidence and applied only to employee's failure to contact one person. D.C. Code 1981, § 1-2501 et seq.; Fed.R.Civ.Proc. Rule 61, 18 U.S.C. *Whitbeck v. Vital Signs*, 159 F.3d 1369, 1998 U.S. App. LEXIS 29489 (C.A.D.C. 1998).

Employer's unsubstantiated allegation that employee, who had brought action alleging violations of the District of Columbia Human Rights Act, made a demand well in excess of \$75,000, without more, did not sufficiently prove that the amount in controversy satisfied the diversity jurisdiction requirement, as required to support removal of action on the basis of diversity jurisdiction; employee's complaint sought damages of "not less than \$50,000." *Reed v. AlliedBarton Sec. Servs., LLC*, 583 F.Supp.2d 92, 2008 U.S. Dist. LEXIS 83252 (2008).

Direct evidence of discrimination for purposes of claim under District of Columbia Human Rights Act (DCHRA) is evidence that, if believed by the fact finder, proves the particular fact in question without any need for inference; in particular, direct evidence includes any

statement or written document showing a discriminatory motive on its face. *Mazloum v. D.C. Metro. Police Dep't*, 522 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 81793 (2007).

African-American former employee who sued former employer failed to establish causal connection between her protected activity and employer's adverse actions, as required to maintain retaliation claim under District of Columbia Human Rights Act (DCHRA); supervisor who was solely responsible for terminating employee was unaware of employee's prior meeting with ombudsman regarding purported discriminatory conditions. *Fox v. Giaccia*, 424 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 17051 (2006).

In evaluating the evidence in an employment discrimination suit, the plaintiff's attack on the employer's explanation must always be assessed in light of the total circumstances of the case. *Jose v. Hospital for Sick Children*, 130 F.Supp.2d 38, 2000 U.S. Dist. LEXIS 20216 (2000).

Evidence was insufficient to show common management of operations of parent company and two subsidiaries to satisfy single-employer doctrine in former employee's hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981; although two officers and directors of parent company were also directors and officers of subsidiaries, different managers controlled daily operations and employment practices at each of three entities. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Evidence was insufficient to show interrelation of operations of parent company and two subsidiaries to satisfy single-employer doctrine in former employee's hostile work environment claim under District of Columbia Human Rights Act (DCHRA) and § 1981; despite common source of check printing, companies maintained separate bank accounts, parent company's 10-K form indicated only common ownership, not interrelation of daily operations, and three entities were located in different buildings and were operated by different staffs. 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Finding that former employer and supervisors engaged in gender-based harassment, so as to create hostile environment, was supported by former employee's testimony that she was subjected to abusive comments by supervisor on almost daily basis and by witness's corroborating testimony, even though employee testified only about five specific instances of harassment. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.;

D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that gender-based harassment and retaliation engaged in by former employer and supervisors caused former employee physical and emotional distress, so as to support damages award under the District of Columbia Human Rights Act, was supported by evidence that employee suffered from stomach pains and was grinding her teeth and that these symptoms first appeared around time that employee was experiencing problems with supervisor, and by employee's testimony about her strong feelings of humiliation and distress when she was terminated from high-level position and escorted from office by security guard. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that former employer and supervisors acted in conscious disregard of former employee's rights, so as to support award of punitive damages under the District of Columbia Human Rights Act, was supported by evidence that defendants failed to take action to investigate or correct immediate supervisor's behavior, failed to follow applicable procedures for processing employee's complaints, recommended immediate supervisor for and promoted him to vice president in the face of employee's complaints, and then allowed him to design reorganization plan that eliminated only employee's job. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that former employer and supervisors retaliated against former employee for her complaints regarding gender-based harassment was supported by evidence that employee complained to supervisor about behavior of employee's immediate supervisor, that supervisor wrote employee note stating that she was disappointed to learn of employee's plan to file complaint, that supervisor did not report employee's complaints to employer's office of diversity or discuss them with immediate supervisor, that immediate supervisor was given promotion, and that immediate supervisor designed reorganization, approved by supervisor, which eliminated only one position from department, that belonging to employee. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Former employer's un rebutted nondiscriminatory explanation for former employee's termination, that she had abandoned her job and refused to return long before formal termination letter had been sent, defeated former employee's retaliation claims under Title VII and District of Columbia Human Rights Act

(DCHRA). Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Evidence that black woman who was discharged from job as assistant director of union's human rights department was active spokeswoman on behalf of minorities and women within union, that woman was qualified for position she held, that at least one male assistant director was not discharged for conduct arguably similar to hers, and that her style of advocacy could have been tied to decision to discharge her was sufficient to support finding that discharge was either based on sex discrimination, in retaliation for her antidiscrimination advocacy, or both, in violation of the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

To the extent that certain documents proffered by employee in her hostile work environment action against District of Columbia shed light on the egregiousness of the personal-appearance harassment she experienced, any error in excluding the documents from trial in which jury found district liable but awarded nominal damages of only \$1 was harmless, given absence of record evidence that employee was personally injured and suffered damages as result of harassment. *Ivey v. District of Columbia*, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

Evidence supported jury's findings that employee refuted employer's denial of sexually harassing comments and conduct by employer's president and also rebutted the defense of legitimate nondiscriminatory reason for her termination, namely unsatisfactory work performance; in employee's presence, employer's president stated that he missed scent of a black woman during lovemaking and he unbuckled his belt and pulled his pants out, reportedly to demonstrate his loss of weight, president told employee vivid accounts of his past experiences making love to women with large breasts, and president told employee that his wife was scheduled for surgery and that he needed to have sex with somebody he could trust. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Black employee did not establish that his discharge was product of unlawful racial discrimination, rather than his misconduct; employer followed procedures that it had used in

the past and, thus, treated employee fairly, stray isolated remark that certain type of mispronunciation represented one of the "fatal flaws of blacks" did not rise to level of direct evidence of discrimination, and employee failed to show that employer's proffered reason for termination, namely that employee had retaliated against coemployees for participating in investigation of him, was pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

President's comment that a certain type of mispronunciation represented one of the "fatal flaws of blacks" did not rise to the level of direct evidence of discrimination for purposes of employee's racial discrimination claim; while president was one of the persons involved in the discipline and possibly termination of employee, the comment was made almost two and a half years before employee was fired and was not specifically directed at him, and there was no legally cognizable connection between the comment and the alleged discriminatory animus which employee claimed resulted in his termination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Racial slur uttered by the person in charge of making employee evaluations and rehiring suggestions constitutes direct evidence of discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Not all comments that reflect discriminatory attitude will support inference that illegitimate criterion was motivating factor in adverse employment decision. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Stray remarks in the workplace, statements by nondecisionmakers, and even statements by decisionmakers unrelated to the decisional process itself are not direct evidence of discrimination and, thus, cannot satisfy employee's burden because they are either too remote in time or too attenuated because they were not directed at employee. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Absent causal link between epithets and the conduct complained of by employee, epithets become stray remarks that cannot support employment discrimination verdict. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Evidence was sufficient to establish former employee's age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA); age-related comments were unwelcome, and repetitive age-based slurs directed toward employee were sufficiently pervasive to alter his working conditions. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Evidence supported hearing examiner's conclusion that fire department's facial hair regulation was discriminatory as applied to bearded firefighter, where examiner rejected department's safety justification because some firefighters were allowed to wear beards due to medical condition, and because plaintiff firefighter was able to obtain proper seal with protective face mask even with beard and handlebar mustache, and testimony of firefighters and union representative undermined department's esprit de corps and morale justification for grooming regulations. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

For purpose of determining whether plaintiff was not promoted because of her sex, substantial evidence supported finding that she and male candidate for promotion had comparable qualifications; both had worked for employer for approximately same period, holding similar positions, and they had similar educational backgrounds. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Finding by District of Columbia Commission on Human Rights in employment discrimination action by discharged black former nursing home assistants, that white assistant slapped patients and called them names, was unsupported by substantial evidence; finding was based on hearsay testimony in investigator's report which was inconsistent with hearing testimony of investigator and complainants. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Substantial evidence supported findings of Commission on Human Rights that employer discriminated against employee on basis of her personal appearance. D.C. Code 1981, § 1-2501 et seq. *Atlantic Richfield Co. v. District of Columbia Com. on Human Rights*, 515 A.2d 1095, 1986 D.C. App. LEXIS 433 (1986).

Employer's proffered reason that it fired employee because she had used a weapon in a fight with her husband, who was also an employee on employer's property and merely reprimanded employee's husband since he had not used a weapon, was based on admissible evidence and satisfied its burden at the second stage of the proofs in an action for disparate treatment based on sex to articulate a legitimate, nondiscriminatory reason for the employment action. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Claim of university faculty member of unequal pay for equal work was properly dis-

missed, even though faculty member presented evidence that she was paid less than her male predecessor or her male successor, where record did not include evidence of comparative duties and skills of former and successor deans and chairs as contrasted to those of faculty member, there were no comparisons of her education, experience, training and ability with that of other faculty members, deans and department chairs, and there was no evidence of her teaching responsibilities compared to teaching responsibility of her male colleagues. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

— Pretext, weight and sufficiency of evidence.

Legitimate, non-retaliatory reason proffered by District of Columbia for selecting internal candidate, rather than discharged District of Columbia Office of Property Management (OPM) employee, who had engaged in protected Equal Employment Opportunity (EEO) activity, for position of risk management coordinator at OPM, namely, that internal candidate was “known quantity,” was not pretext for retaliation under District of Columbia Human Rights Act (DCHRA). *Francis v. District of Columbia*, 731 F.Supp.2d 56, 2010 U.S. Dist. LEXIS 137113 (2010).

University put forward legitimate nondiscriminatory reason for not promoting Asian Indian assistant professor to professor, satisfying its burden of production after prima facie case of ethnicity discrimination had been established in lawsuit under District of Columbia Human Rights Act (DCHRA) alleging failure to promote, where decision-maker believed that assistant professor had not updated university’s journalism curriculum by not keeping current in field and he had not demonstrated appropriate type of scholarship worthy of promotion and those explanations were amply supported by record evidence and were free from discriminatory animus. *Elam v. Bd. of Trs.*, 530 F.Supp.2d 4, 2007 U.S. Dist. LEXIS 92328 (2007).

Genuine issue of material fact, as to whether employer’s proffered legitimate, nondiscriminatory reason for terminating African-American female employee was pretextual, precluded summary judgment for employer and supervisory and management employees on race and gender discrimination claims under District of Columbia Human Rights Act (DCHRA). *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

African-American former employee failed to establish, in his action under § 1981 and District of Columbia law, that employer’s legitimate nondiscriminatory reason for discharging him, namely, poor performance, was pretext for

racial discrimination or retaliation; while employee provided explanations for some of his conduct, he offered no evidence that race or retaliatory motives played any role in discharge decision. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Richardson v. National Rifle Ass’n*, 871 F. Supp. 499, 1994 U.S. Dist. LEXIS 18777 (1994).

Evidence supported finding by Commission on Human Rights that employer’s proffered reason for terminating plaintiff African-American employee from his position as sales manager, i.e., plaintiff’s position was eliminated in company reorganization and decisionmakers believed that plaintiff had absolutely rejected a regional manager position, was pretext for race discrimination in violation of District of Columbia Human Rights Act (DCHRA); decisionmakers considered white employee, who was also a sales manager, a better fit for regional manager position even though his suitability was questionable, white sales manager but not plaintiff was informed about reorganization and its effect on sales manager position before being asked about his interest in regional manager position, plaintiff had longer probationary period when hired, employer ignored his recommended discipline for two of his white subordinates, and whites held management and sales jobs in company while minorities generally performed manual labor. *Ottenberg’s Bakers, Inc. v. D.C. Comm’n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

In employment discrimination cases, it is not enough for employee simply to show that employer’s proffered reason for adverse employment action was pretextual, although that will often considerably assist him in doing so; employee must also prove, by preponderance of the evidence, that employer has unlawfully discriminated. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer articulated legitimate, non-discriminatory reason for terminating employee, employee needed to present evidence showing not only that employer’s proffered reason was pretext for terminating him, but also that it was pretext for terminating him because of his race, i.e., that race was the real motivating factor. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Statistics alone could not suffice to prove that employer’s motives were more likely to have been discriminatory, given that employer produced evidence that it fired employee because it found that he had sexually harassed his secretary and then retaliated against employees who participated in investigation of harassment charge; employee had to make some additional showing that employer’s proffered nondiscriminatory reason for adverse employment action

was pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Substantial evidence supported finding that employer's purported reasons for promoting male candidate rather than plaintiff were merely pretext for discrimination on the basis of sex; in addition to comparable qualifications of plaintiff and male candidate, which would not be sufficient in and of itself to undercut employer's nondiscriminatory reasons, evidence also indicated that supervisor of the vacant position had made repeated statements to the effect that he preferred the position to be filled by a male. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Erroneous imposition by District of Columbia Commission on Human Rights on employer of greater burden of persuasion, rather than of production, regarding articulation of legitimate nondiscriminatory reason for disparate treatment of black employees did not require reversal in employment discrimination case, as Commission's finding of pretext had sufficient support on record as whole. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

In a disparate treatment case filed under the Human Rights Act against an employer, the employee may prove that the employer's proffered reason for the employment action was a pretext either directly by showing that a discriminatory reason more likely motivated the action, or indirectly, by showing that the employer's proffered reason for the disparate treatment is unworthy of credence. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Record in action against employer for disparate treatment based on sex did not support the Commission on Human Rights' finding that employer's reliance on employee's misconduct as grounds for dismissal was a pretext for discrimination as the fact that the Commission disagreed with the employer's findings as to the circumstances surrounding the fight between employee and her husband, who was also an employee, did not show that the employer's reason to discipline the employees differently, based on the employer's supported findings, was unworthy of belief or pretextual. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Finding that complainant was sexually harassed by her immediate supervisor, though supported by substantial evidence in record,

was insufficient to warrant a further finding of a discriminatory employment practice where employer thereafter met its burden of articulating a legitimate, nondiscriminatory reason for complainant's termination, insubordination in refusing to prepare a requested memorandum, and complainant failed to meet her burden of proving that memorandum request was a sham and that it was her rejection of sexual advances by her immediate supervisor that led to her discharge. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

— Prima facie showing, weight and sufficiency of evidence.

African-American laboratory technologist had not established prima facie case of race discrimination against university hospital or Administrative Director of Department of Laboratory Medicine, under District of Columbia Human Rights Act (DCHRA) or §§ 1981; she provided no objective evidence to suggest that adverse actions taken against her occurred because of her race, or that similarly situated individuals of other races were treated differently than she, but rather merely speculated that her race played a role in defendants' employment decisions. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

Applicant's testimony during case-in-chief, that she was black and 61 years of age at time she applied for vacant housekeeper position at hotel and that she was not selected for position despite being qualified therefor, was legally insufficient for reasonable jury to infer she was discriminated against because of her race or age; despite having adequate opportunity during discovery to garner evidence of discrimination, applicant presented no objective evidence that reason for hotel's decision not to hire her was based on improper motive, or any motive at all. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

Fact that Filipino former employee's African American replacement also was a nonwhite, and therefore was a member of a protected class, did not preclude the employee from establishing a prima facie case of employment discrimination under §§ 1981 and the District of Columbia Human Rights Act; discrimination was often race or ethnicity-specific, and an employer could discriminate against Asian em-

employees where he or she would not discriminate against African American employees. 42 U.S.C. §§ , 130 F.Supp.2d 38 (1981).

Former employee failed to present prima facie case of retaliatory discharge against former employers under § 1981 and District of Columbia Human Rights Act (DCHRA), absent allegations that he suffered demonstrably adverse employment consequence from allegedly retaliatory actions; following employee's complaints of discrimination, both employers cooperated with employee and granted his requests to transfer and increase his shifts, and even rehired him after he quit. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

African American former employee sufficiently alleged that supervisor's discriminatory and disparate treatment of her resulted in racially hostile work environment to establish prima facie case under Title VII, § 1981 and District of Columbia Human Rights Act (DCHRA) by proffering evidence of four incidents in three month period in which supervisor chastised her and mistreated her creating stress on her emotional, psychological and physical well-being which led to her physician's recommendation that she seek psychological evaluation, and by claiming that members outside protected class were not chastised or harassed. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C. § 2000e-2(a)(1); 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

Former employee's allegations that supervisor's intentional race discrimination in at least four separate incidents created intolerable working conditions which caused her to take unpaid medical and eventually quit were sufficient to show prima facie case of constructive discharge under Title VII, § 1981 and District of Columbia Human Rights Act (DCHRA), where employee described how incident affected her physical, psychological, and emotional state to point that she had to seek therapy. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C. § 2000e-2(a)(1); 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

Employee's reliance on the belief that she was denied promotion in retaliation for having attended prayer breakfast of the "Million Man March" on Washington, D.C., which was a day of national atonement by black men, was insufficient to support a prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA); March and its related events were not statutorily protected activities. D.C.

Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

In the absence of objective evidence showing that worker was hired as director of admissions at business school and was later removed from that position to a lesser position for discriminatory reasons, he failed to make prima facie showing that he suffered adverse employment action or was discriminated against in the terms and conditions of his employment in violation of the District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Conduct of employee's supervisors in kissing her on head, asking her to work late when no work was to be done on that shift, and showing video of naked woman pulling co-worker's pants down was sufficient for prima facie showing that employer tolerated sexually hostile and abusive work environment in violation of the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 to 1-2557. *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

Reassigned employee satisfied initial burden of production on claim of retaliation in being removed as pension plan administrator by showing that he had already commenced his age discrimination action against employer at time of his removal, his removal from position representing an adverse personnel action, and employer admitted for limited purposes of motion that they replaced employees as administrator expressly because of pending lawsuit. D.C. Code 1981, § 1-2501 et seq. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Direct proof of discrimination is not required to establish prima facie case of either sex discrimination or retaliatory discrimination, under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq.; plaintiff need only establish facts adequate to permit inference of discriminatory or retaliatory motive. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

A plaintiff's prima facie case of employment discrimination in violation of District of Columbia Human Rights Act (DCHRA), combined with sufficient evidence to find that employer's asserted nondiscriminatory justification for adverse employment decision is false, may permit trier of fact to conclude that employer unlawfully discriminated. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

To establish prima facie case of employment discrimination in violation of District of Columbia Human Rights Act (DCHRA), at first step of

McDonnell Douglas burden-shifting analysis, employee must show: (1) that he was member of protected class; (2) that he was qualified for job from which he was terminated or that he sought; (3) that his termination or denial of the job occurred despite his employment qualifications; and (4) that substantial factor in his termination or denial of the position was his membership in protected class. *Ottensberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

African-American former employee failed to show that federal credit union's proffered reason for demoting her, that she had unsatisfactorily performed the duties of credit union manager, was pretext for race or age discrimination in violation of District of Columbia Human Rights Act (DCHRA); employee's poor performance was reflected in both her performance evaluation and examination report of the National Credit Union Administration (NCUA), employee conceded that she could not perform her duties as manager at an acceptable level, and employee merely offered conclusory statements that her former positions were filled by younger, white personnel. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American former employee failed to show that federal credit union's proffered reason for terminating her, that she had lost her bond coverage after using corporate credit card for personal purchases, was pretext for race or age discrimination in violation of District of Columbia Human Rights Act (DCHRA), even though employee claimed that president of credit union's board of directors had made deliberate false representations to bonding company regarding employee's use of corporate credit card; employee provided no evidence of such misrepresentations, employee conceded that she made personal charges on corporate card, and employee did not provide documentation regarding her personal use of corporate card. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

To establish prima facie case of discrimination, employee had to demonstrate that he was member of protected class, that he was qualified for job from which he was terminated, that

his termination occurred despite his employment qualifications, and that substantial factor in his termination was his membership in the protected class. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To establish prima facie case of racial discrimination in the decision to terminate him, African-American employee had to come forward with evidence that he was fired from a job for which he was qualified while white employees, similarly situated to him, were not terminated, but, rather, were treated more leniently. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Employer was not entitled to judgment as a matter of law or new trial regarding its liability since substantial evidence supported jury's verdict, finding employer guilty of sex discrimination under District of Columbia Human Rights Act (DCHRA); employee established prima facie case of sex discrimination, and she demonstrated that employer's justification for her termination was a pretext designed to conceal employer's sex discrimination. *D.C. Code 1981, § 1-2501 et seq. UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Female employee who was terminated from her position failed to establish prima facie case of sex discrimination; employee was only female professional terminated during prior nine years, four men had been terminated during that period for reasons related to conduct, and employee's supervisor alleged that employee was discharged because of misconduct relating to her verbal attack of two-coemployees, not because she was a woman. *D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

Prima facie case of discriminatory discharge may be established under District of Columbia Human Rights Act by evidence of dissimilar treatment of similarly situated employees, as well as by showing that discharged employee's same work was assigned to person not member of same protected class. *D.C. Code 1981, § 1-2501 et seq. Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

§ 2-1401.02. Definitions.

The following words and terms when used in this chapter have the following meanings:

(1) "Administrative Procedure Act" means the "District of Columbia Administrative Procedure Act", (§ 2-501 et seq.).

(2) "Age" means 18 years of age or older.

(3) “Chairman” means the duly appointed Chairman of the District of Columbia Commission on Human Rights.

(4) “Commission” means the Commission on Human Rights, as established under subchapter IV of Unit A of this chapter.

(5) “Council” means the Council of the District of Columbia as established by § 1-204.01(a).

(5A) “Disability” means a physical or mental impairment that substantially limits one or more of the major life activities of an individual having a record of such an impairment or being regarded as having such an impairment.

(6) “Director” means the Director of the District of Columbia Office of Human Rights, or a designate.

(7) “District” means the District of Columbia.

(7A) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

(7B) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

(8) “Educational institution” means any public or private institution including an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system or university; and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution.

(9) “Employee” means any individual employed by or seeking employment from an employer; provided, that the term “employee” shall include an unpaid intern.

(10) “Employer” means any person who, for compensation, employs an individual, except for the employer’s parent, spouse, children or domestic servants, engaged in work in and about the employer’s household; any person acting in the interest of such employer, directly or indirectly; and any professional association.

(11) “Employment agency” means any person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees, opportunities to work for an employer, and includes an agent of such a person.

(11A) “Familial status” means one or more individuals under 18 years of age being domiciled with: (1) a parent or other person having legal custody of the individual; or (2) the designee, with written authorization of the parent, or other persons having legal custody of individuals under 18 years of age. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual under 18 years of age.

(11B) “Family member” means, with respect to an individual and genetic information, the spouse or domestic partner of the individual, dependent child (whether born to or placed for adoption with the individual), and all other individuals related by blood to the individual, spouse, domestic partner, or child.

(12) “Family responsibilities” means the state of being, or the potential to become, a contributor to the support of a person or persons in a dependent

relationship, irrespective of their number, including the state of being the subject of an order of withholding or similar proceedings for the purpose of paying child support or a debt related to child support.

(12A) “Gender identity or expression” means a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s assigned sex at birth.

(12A-i) “Genetic information” means information about the presence of any gene, chromosome, protein, or certain metabolites that indicate or confirm that an individual or an individual’s family member has a mutation or other genotype that is scientifically or medically believed to cause a disease, disorder, or syndrome, if the information is obtained from a genetic test.

(12B) “Genetic test” means an analysis of human chromosomes, genes, gene products, or genetic information that is used to identify the presence or absence of inherited or congenital alterations in genetic material that are associated with disease or illness. A genetic test shall not include a test for the presence of illegal drugs, routine physical measurements, or chemical, blood or urine analysis, unless conducted purposefully to obtain genetic information.

(12C) “Health benefit plan” means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term “health care benefit plan” does not mean accident only, credit or disability insurance; coverage of Medicare services or federal employee benefit plans, pursuant to contracts with the United States government; Medicare supplemental or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as supplemental to liability insurance, insurance arising out of workers compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance; or life insurance.

(12D) “Health insurer” means any person that provides one or more health benefits plans, or insurance in the District of Columbia, including an insurer, a hospital and medical services corporation, a fraternal benefits society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner of the Department of Insurance, Securities, and Banking.

(13) “Hearing tribunal” means members of the Commission, or 1 or more hearing examiners, appointed by the Commission to conduct a hearing.

(14) “Housing business” means a business operated under the authority of a license issued by the Mayor, or other authorized District agent, pursuant to § 47-2828 and the regulations promulgated thereunder.

(14A) “Intrafamily offense” means an offense as defined in § 16-1001(8).

(15) “Labor organization” means any organization, agency, employee representation committee, group, association, or plan in which employees

participate directly or indirectly; and which exists for the purpose, in whole or in part, of dealing with employers, or any agent thereof, concerning grievances, labor disputes, wages, rates of pay, hours, or other terms, conditions, or privileges of employment; and any conference, general committee, joint or system board, or joint council, which is subordinate to a national or international organization.

(16) "Make public" means disclosure to the public or to the news media of any personal or business data obtained during the course of an investigation of a complaint filed under the provisions of this chapter, but not to include the publication of EEO-1, EEO-2, or EEO-3 reports as required by the Equal Employment Opportunity Commission, or any other data in the course of any administrative or judicial proceeding under this chapter; or any judicial proceeding under Title VII of the Civil Rights Act of 1964 [42 U.S.C. § 2000e et seq.] involving such information; nor shall it include access to such data by staff or the Office of Human Rights, members of the Commission on Human Rights, or parties to a proceeding, nor shall it include publication of aggregated data from individual reports.

(17) "Marital status" means the state of being married, in a domestic partnership, single, divorced, separated, or widowed and the usual conditions associated therewith, including pregnancy or parenthood.

(18) "Matriculation" means the condition of being enrolled in a college, or university; or in a business, nursing, professional, secretarial, technical or vocational school; or in an adult education program.

(19) "Office" means the District of Columbia Office of Human Rights, established by § 2-1411.01.

(20)(A) "Owner" means 1 of the following:

(i) Any person, or any one of a number of persons in whom is vested all or any part of the legal or equitable ownership, dominion, or title to any real property;

(ii) The committee, conservator, or any other legal guardian of a person who for any reason is non sui juris, in whom is vested the legal or equitable ownership, dominion or title to any real property; or

(iii) A trustee, elected or appointed or required by law to execute a trust, other than a trustee under a deed of trust to secure the payment of money; or one who, as agent of, or fiduciary, or officer appointed by the court for the estate of the person defined in sub-subparagraph (i) of this subparagraph shall have charge, care or control of any real property.

(B) The term "owner" shall also include the lessee, the sublessee, assignee, managing agent, or other person having the right of ownership or possession of, or the right to sell, rent or lease, any real property.

(21) "Person" means any individual, firm, partnership, mutual company, joint-stock company, corporation, association, organization, unincorporated organization, labor union, government agency, incorporated society, statutory or common-law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, trustee in bankruptcy, committee, assignee, officer, employee, principal or agent, legal or personal representative, real estate broker or salesman or any agent or representative of any of the foregoing.

(22) "Personal appearance" means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare or safety of any individual.

(23) Repealed.

(24) "Place of public accommodation" means all places included in the meaning of such terms as inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest; restaurants or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains and all stores where ice cream, ice and fruit preparation or their derivatives, or where beverages of any kind are retailed for consumption on the premises; wholesale and retail stores, and establishments dealing with goods or services of any kind, including, but not limited to, the credit facilities thereof; banks, savings and loan associations, establishments of mortgage bankers and brokers, all other financial institutions, and credit information bureaus; insurance companies and establishments of insurance policy brokers; dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments; barber shops, beauty parlors, theaters, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiards and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; public halls and public elevators of buildings and structures, occupied by 2 or more tenants, or by the owner and 1 or more tenants. Such term shall not include any institution, club, or place of accommodation which is in its nature distinctly private except, that any such institution, club or place of accommodation shall be subject to the provisions of § 2-1402.67. A place of accommodation, institution, or club shall not be considered in its nature distinctly private if the place of accommodation, institution, or club:

(A) Has 350 or more members;

(B) Serves meals on a regular basis; and

(C) Regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.

(25) "Political affiliation" means the state of belonging to or endorsing any political party.

(26) "Real estate broker (or salesperson)" means any person licensed as such in accordance with the provisions of Chapter 17 of Title 42.

(27) “Real Estate Commission” means the Real Estate Commission of the District of Columbia established by § 42-1739 [repealed].

(28) “Sexual orientation” means male or female homosexuality, heterosexuality and bisexuality, by preference or practice.

(29) “Source of income” means the point, the cause, or the form of the origination, or transmittal of gains of property accruing to a person in a stated period of time; including, but not limited to, money and property secured from any occupation, profession or activity, from any contract, agreement or settlement, from federal payments, court-ordered payments, from payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist.

(30) “Transaction in real property” means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, any interest in real property or improvements thereon, including, but not limited to, leaseholds and other real chattels.

(31) “Unlawful discriminatory practice” means those discriminatory practices which are so specified in subchapter II of Unit A of this chapter. “Unlawful discriminatory practice” shall include harassment engaged in for discriminatory reasons specified in § 2-1402.11(a).

(Dec. 13, 1977, D.C. Law 2-38, title I, § 102, 24 DCR 6038; Mar. 10, 1983, D.C. Law 4-209, § 35(a)(1), 30 DCR 390; Feb. 24, 1987, D.C. Law 6-166, § 33(c), 33 DCR 6710; Dec. 10, 1987, D.C. Law 7-50, § 2, 34 DCR 6887; June 28, 1994, D.C. Law 10-129, § 2(b), 41 DCR 2583; Apr. 20, 1999, D.C. Law 12-242, § 2(b), 46 DCR 952; Apr. 12, 2000, D.C. Law 13-91, § 159(a), 47 DCR 520; June 19, 2001, D.C. Law 13-313, § 7, 48 DCR 1873; Oct. 1, 2002, D.C. Law 14-189, § 2(a), 49 DCR 6523; Dec. 7, 2004, D.C. Law 15-216, § 2(a), 51 DCR 9123; Apr. 5, 2005, D.C. Law 15-263, § 2(b), 52 DCR 237; Apr. 8, 2005, D.C. Law 15-309, § 2, 52 DCR 1718; Mar. 8, 2006, D.C. Law 16-58, § 2(b), 53 DCR 14; Mar. 2, 2007, D.C. Law 16-191, § 123, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-273, § 3(b), 54 DCR 859; Sept. 12, 2008, D.C. Law 17-231, § 7, 55 DCR 6758; Mar. 25, 2009, D.C. Law 17-368, § 4(a)(1), 56 DCR 1338; Mar. 3, 2010, D.C. Law 18-111, § 1151, 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 1-2502. 1973 Ed., § 6-2202.

Effect of amendments. — D.C. Law 13-91 validated a previously made technical correction in par. (11A).

D.C. Law 13-313 rewrote par. (19) which had read:

“(19) ‘Office’ means the District of Columbia Office of Human Rights, as established by Commissioner’s Order No. 71-224, dated July 8, 1971, as amended.”

D.C. Law 14-189 rewrote par. (31) which had read as follows: “‘Unlawful discriminatory practice’ means those discriminatory practices which are so specified in subchapter II of Unit A of this chapter.”

D.C. Law 15-216, in par. (4), substituted

“Commission on Human Rights, as established under subchapter IV of Unit A of this chapter” for “District of Columbia Commission on Human Rights, as established by Commissioner’s Order No. 71-224, dated July 8, 1971”.

D.C. Law 15-263 added pars. (11B), (12A) to (12D).

D.C. Law 15-309, in par. (17), substituted “in a domestic partnership, single, divorced” for “single, divorced”.

D.C. Law 16-58 designated the existing text of par. (12A) as (12A-i); and added par. (12A).

D.C. Law 16-191, in par. (12A-i), validated a previously made technical correction.

D.C. Law 16-273 added par. (14A).

D.C. Law 17-231 added subsecs. (7A) and (7B); and rewrote subsec. (11B), which had read

as follows: “(11B) ‘Family member’ means, with respect to an individual and genetic information, the spouse of the individual, dependent child (whether born to or placed for adoption with the individual), and all other individuals related by blood to the individual, spouse, or child.”

D.C. Law 17-368, in par. (14A), substituted “§ 16-1001(8)” for “§ 16-1001(5)”.

D.C. Law 18-111, in par. (9), inserted “; provided, that the term ‘employee’ shall include an unpaid intern”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1151 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 1151 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.

Legislative history of Law 4-209. — Law 4-209 was introduced in Council and assigned Bill No. 4-230, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-299 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-166. — Law 6-166 was introduced in Council and assigned Bill No. 6-134, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-212 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-50. — Law 7-50 was introduced in Council and assigned Bill No. 7-157, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on July 14, 1987 and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-83 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 13-91. — Law 13-91, the “Technical Amendments Act of 1999,”

was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Legislative history of Law 13-313. — Law 13-313, the “Technical Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-879, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 19, 2001, it was assigned Act No. 13-574 and transmitted to both Houses of Congress for its review. D.C. Law 13-313 became effective on June 19, 2001.

Legislative history of Law 14-189. — Law 14-189, the “Human Rights Amendment Act of 2002,” was introduced in Council and assigned Bill No. 14-132, which was referred to the Committee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on June 26, 2002, it was assigned Act No. 14-399 and transmitted to both Houses of Congress for its review. D.C. Law 14-189 became effective on October 1, 2002.

Legislative history of Law 15-216. — Law 15-216, the “Commission on Human Rights Establishment Amendment Act of 2004,” was introduced in Council and assigned Bill No. 15-51, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-521 and transmitted to both Houses of Congress for its review. D.C. Law 15-216 became effective on December 7, 2004.

Legislative history of Law 15-263. — For Law 15-263, see notes following § 2-1401.01.

Legislative history of Law 15-309. — Law 15-309, the “Domestic Partnership Protection Amendment Act of 2004,” was introduced in Council and assigned Bill No. 15-1075, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on January 4, 2005, it was assigned Act No. 15-706 and transmitted to both Houses of Congress for its review. D.C. Law 15-309 became effective on April 8, 2005.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

Legislative history of Law 16-273. — For Law 16-273, see notes following § 2-1401.01.

Legislative history of Law 17-231. — Law 17-231, the “Omnibus Domestic Partnership Equality Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-135, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on June 6, 2008, it was assigned Act No. 17-403 and transmitted to both Houses of Congress for its review. D.C. Law 17-231 became effective on September 12, 2008.

Legislative history of Law 17-368. — Law

17-368, the “Intrafamily Offenses Act of 2008”, was introduced in Council and assigned Bill No. 17-55 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 22, 2009, it was assigned Act No. 17-703 and transmitted to both Houses of Congress for its review. D.C. Law 17-368 became effective on March 25, 2009.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Short title. — Short title: Section 1150 of D.C. Law 18-111 provided that subtitle P of title I of the act may be cited as the “Intern Anti-Discrimination Amendment Act of 2009”.

CASE NOTES

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Adverse employment action.

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Adverse employment action.

Being forced to use sick pay is an objective and tangible harm and may therefore constitute an “adverse employment action,” as required for discrimination claim under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), or the District of Columbia Human Rights Act (DCHRA). *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

An “adverse employment action,” as required to sustain discrimination claim under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), or the District of Columbia Human Rights Act (DCHRA), occurs when an employee experiences materially adverse consequences affecting the terms, conditions, or privileges of employment or future employment opportunities such that a reasonable trier of fact could find objectively tangible harm. *Gordon v. District of Columbia*, 605

F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

An “adverse employment action,” as required to sustain discrimination claim under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), or the District of Columbia Human Rights Act (DCHRA), is a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing significant change in benefits. *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

Age.

District of Columbia Human Rights Act’s definition of “age” in case of employment as 18 to 65 years of age “unless otherwise prohibited by law” did not mean that upper end of age definition would always comport with standard found in Age Discrimination in Employment Act such that 70-year-old employee who claimed he was forced to retire could maintain claim under District of Columbia Act. Age Discrimination in Employment Act of 1967, § 7, as amended, 29 U.S.C. § 626; D.C. Code 1981, § 1-2502(2). *Passer v. American Chemical Soc.*, 701 F. Supp. 1, 1988 U.S. Dist. LEXIS 14635 (1988).

Defamatory publication.

A publication is “defamatory” if it tends to injure the plaintiff in his trade, profession or community standing, or lower him in the estimation of the community; an allegedly defamatory remark must be more than unpleasant or offensive but must make the plaintiff appear odious, infamous, or ridiculous. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Disability.

To bring a claim for disability discrimination under the ADA, the Rehabilitation Act, or the

District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate that she is disabled within the meaning of the statute. *Ellis v. Georgetown Univ. Hosp.*, 723 F.Supp.2d 42, 2010 U.S. Dist. LEXIS 69028 (2010).

University professor's allegation that she was discriminated against by university for deaf persons, because of nature and extent of her disability of deafness, including ways in which she chose to respond to her deafness that did not conform to what was preferred or accepted by university, was sufficient for disability discrimination claim, under District of Columbia Human Rights Act (DCHRA), even though professor did not allege discrimination solely due to her deafness, but also due to her particular kind of deafness and approach to her disability. *Kimmel v. Gallaudet Univ.*, 639 F.Supp.2d 34, 2009 U.S. Dist. LEXIS 67876 (2009).

To sustain a disability discrimination claim under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), or the District of Columbia Human Rights Act (DCHRA), a plaintiff must show that (1) she suffered an adverse employment action (2) because of her disability. *Gordon v. District of Columbia*, 605 F.Supp.2d 239, 2009 U.S. Dist. LEXIS 48973 (2009).

Genuine issues of material fact as to whether employee suffering from hypertension, diabetes and end-stage renal disease was disabled, and whether supervisor included employee's position in reduction in force because of her disabilities precluded summary judgment in employee's disability discrimination suit under District of Columbia Human Rights Act (DCHRA). *Price v. Wash. Hosp. Ctr.*, 321 F.Supp.2d 38, 2004 U.S. Dist. LEXIS 9834 (2004).

Former employee failed to create genuine issue of material fact as to whether she had "disability" within meaning of District of Columbia Human Rights Act (DCHRA) as would preclude summary judgment on her handicap discrimination claim against her former employer, where former employee merely alleged that she was unable to perform her job with former employer, that she had been limited from doing some household chores and that her success in college and new job were result of reasonable accommodations made by her new employer and professors. D.C. Code 1981, § 1-2502(5A). *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Under District of Columbia law, former employee's alleged inability to perform particular job or work for particular supervisor would not, without more, qualify her as "disabled" under

District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2502(5A). *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Under District of Columbia law, former employee's allegation that she had problems performing minor household chores did not by itself establish substantial limitations on major life activities, as would render her "disabled" under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2502(5A). *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

In order to establish a prima facie case of disability discrimination under the District of Columbia Human Rights Act (DCHRA), former employee had to show that she had a disability and that a reasonable accommodation could have been made by employer for that disability. *Grant v. May Dep't Stores Co.*, 786 A.2d 580, 2001 D.C. App. LEXIS 249 (2001).

Employee did not have a disability under the District of Columbia Human Rights Act (DCHRA); employee's diabetes, which was controlled by insulin, did not substantially limit employee in a major life activity. *Grant v. May Dep't Stores Co.*, 786 A.2d 580, 2001 D.C. App. LEXIS 249 (2001).

Employee was not disabled under the District of Columbia Human Rights Act, where defendant's psychiatrist testified that defendant's symptoms were attributable to a specific job and a specific supervisor, and that defendant could work at another job. *Woodland v. Dist. Council 20*, 777 A.2d 795, 2001 D.C. App. LEXIS 148 (2001).

Mental illness alone is not "physical handicap," within meaning of Human Rights Act provision prohibiting employer from discharging employee based wholly or partially upon discriminatory reasons; to come within Act's protection, complainant must prove that he or she has mental disablement for which reasonable accommodation can be made. D.C. Code 1981, §§ 1-2502(23), 1-2512(a)(1). *American University v. District of Columbia Comm'n on Human Rights*, 598 A.2d 416, 1991 D.C. App. LEXIS 287 (1991).

Alcoholism is a "disability" under the Human Rights Act. *Besikirski v. Providence Hospital*, 126 WLR 869 (Super. Ct. 1998).

Educational institution.

University's complaint alleged plausible claim for equitable indemnification from former acting dean whose conduct resulted in settled lawsuit by former acting assistant dean against

university under ADA, Rehabilitation Act, FMLA, and District of Columbia Human Rights Act (DCHRA); even assuming that federal statutes prohibited employers from bringing causes of action for contribution or indemnification against employees, at least some of appropriate rule of decision was created by state law since former assistant dean's suit included claim under DCHRA, which imposed liability on individuals. *Howard University v. Watkins*, 2012 WL 1454487 (2012).

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associate members was not "educational institution" under statute prohibiting sex discrimination by educational institutions. D.C. Code 1978 Supp. §§ 6-2202(h), 6-2251. *United States Jaycees v. Bloomfield*, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

Employee.

Unpaid intern was not an "employee" of chiropractic office where she worked, within meaning of District of Columbia Human Rights Act (DCHRA), and thus she was not entitled to relief under DCHRA on her sexual harassment claim against her supervisor and office; intern was not working "for compensation," as required for DCHRA to apply. *Evans v. Washington Ctr. for Internships & Academic Seminars*, 587 F.Supp.2d 148, 2008 U.S. Dist. LEXIS 94260 (2008).

Employer.

Regardless of extent to which National Association of Securities Dealers (NASD) rules and by-laws might require arbitration of employment disputes between member-employer and registered employee, registered employee was not required to arbitrate her employment discrimination and retaliation claims once she agreed to dismiss all defendants except for non-member employer; employee joined related companies and supervisor as defendants out of abundance of caution, given broad definition of "employer" in District of Columbia Human Rights Act, but those defendants were not necessary parties. D.C. Code 1981, §§ 1-2501 et seq., 1-2502(10). *Gardner v. Benefits Commun. Corp.*, 175 F.3d 155, 1999 U.S. App. LEXIS 2700 (C.A.D.C. 1999).

Genuine issues of material fact existed as to whether employer had employee handbook, whether handbook stated that employer did not tolerate discrimination, and whether handbook was provided to employee, precluding summary judgment for employer in action alleging employee was subjected to sexual harassment and hostile work environment in violation of the District of Columbia Human Rights Act (DCHRA). *King v. Triser Salons, LLC*, 815

F.Supp.2d 328, 2011 U.S. Dist. LEXIS 113410 (2011).

Individual defendants that former employee sought to add as defendants in action against former employer for alleged sexual harassment and discrimination based on sexual orientation in violation of District of Columbia Human Rights Act (DCHRA) could be classified as employers under DCHRA, and thus amendment was not futile; individual defendants were managers who acted in interest of employer, who either perpetrated or witnessed and failed to stop alleged discriminatory acts, or to whom employee complained without success about alleged acts. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Individual defendants' motion to dismiss FMLA, Equal Pay Act (EPA) and District of Columbia Human Rights Act (DCHRA) claims was premature, as determination of whether any of them was plaintiff's "employer" within meaning of those statutes had to be based on facts not yet in evidence. *Cruz-Packer v. District of Columbia*, 539 F.Supp.2d 181, 2008 U.S. Dist. LEXIS 21444 (2008).

Unlike Title VII, District of Columbia Human Rights Act's (DCHRA's) definition of "employer" is broader, including "any person acting in the interest of such employer, directly or indirectly," and DCHRA makes it unlawful to aid and abet, or to attempt, any of the discriminatory acts forbidden by the statute. *Mitchell v. AMTRAK*, 407 F.Supp.2d 213, 2005 U.S. Dist. LEXIS 36973 (2005).

Terminated employee's former supervisors were amenable to suit in their individual capacities under the District of Columbia's Human Rights Act; supervisors fell within ambit of Act's definition of "employer," and if employer unlawfully discriminated against employee, then supervisors could be liable under Act for aiding, abetting, inviting, or coercing discrimination. *MacIntosh v. Bldg. Owners & Managers Ass'n Int'l*, 355 F.Supp.2d 223, 2005 U.S. Dist. LEXIS 318 (2005).

In his various capacities, as president, chief operating officer, controlling shareholder, and director of employer, as well as the supervisor of employee, employer's president was acting, directly or indirectly, in the interest of employer and hence fell within District of Columbia Human Rights Act's (DCHRA) definition of "employer," and consequently, because president was a high level official of employer who exercised extensive supervisory, management and administrative authority over the corporation, he was individually liable to employee under the DCHRA. *Purcell v. Thomas*, 928 A.2d 699, 2007 D.C. App. LEXIS 465 (2007), writ of certiorari denied by 555 U.S. 819, 129 S. Ct. 94, 172 L. Ed. 2d 31, 2008 U.S. LEXIS 6916, 77 U.S.L.W. 3197, 104 Fair Empl. Prac. Cas. (BNA) 736 (2008).

Where the employer is a law partnership, the phrase “any person acting in the interest of such employer, directly or indirectly,” necessarily includes a partner as that phrase is used in the Human Rights Act section defining employer as any person acting in the interest of such employer, directly or indirectly. D.C. Code 1981, § 1-2502(10). *Wallace v. Skadden, Arps, Slate, Meagher & Flom*, 715 A.2d 873, 1998 D.C. App. LEXIS 138 (1998).

Handicap.

Under District of Columbia Human Rights Act, condition is “handicap” protected by Act only if it substantially limits one or more of plaintiff’s major life activities. D.C. Code 1981, § 1-2501 et seq. *Katradis v. Dav-El of Washington*, 846 F.2d 1482, 1988 U.S. App. LEXIS 6875 (C.A.D.C. 1988).

“Physical handicap” is defined to include only those who have a physical impairment. Under that definition, the protection afforded by the D.C. Human Rights Act for the physically handicapped is for those who suffer some sort of disability. *Ortner v. Paralyzed Veterans of Am.*, 120 WLR 193 (Super. Ct. 1992).

Marriage.

Under District of Columbia marriage statute, definition of “marriage” does not include same-sex unions. D.C. Code 1981, §§ 30-101 to 30-121. *Dean v. District of Columbia*, 653 A.2d 307, 1995 D.C. App. LEXIS 8 (1995).

Person.

Sole proprietorship could be sued for violating District of Columbia Human Rights Act; definition of “person” in Act was broad enough to encompass sole proprietorship. D.C. Code 1981, § 1-2502. *Ravinskask v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

Personal liability.

District of Columbia Human Rights Act (DCHRA) does not preclude a claim against individual and supervisory employees involved in committing the allegedly discriminatory conduct. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Disabled student and her parent could maintain claims against superintendent of District of Columbia Public Schools (DCPS) and current and former DCPS officials in their personal capacities under District of Columbia Human Rights Act (DCHRA). *Alston v. District of Columbia*, 561 F.Supp.2d 29, 2008 U.S. Dist. LEXIS 47329 (2008), amended by 770 F. Supp. 2d 289, 2011 U.S. Dist. LEXIS 28583 (D.D.C. 2011).

Political affiliation.

Human Rights Act’s protection against discrimination based on political affiliation is not limited to government employees. *Blodgett v.*

Univ. Club, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Private social club’s expulsion of member who was affiliated with an organization that distributed “hate music” did not constitute discrimination based on political affiliation, for purposes of provision of Human Rights Act prohibiting places of public accommodation from discriminating based on political affiliation, in absence of evidence that the organization was a “political party” under any ordinary sense and with the meaning commonly attributed to that term. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Prescribed standards.

Employer’s policy regarding employee hairstyle was sufficiently specific to satisfy “prescribed standards” element of statutory exception to prohibition against discrimination on basis of personal appearance, with respect to employee forbidden to wear ponytail by supervisor; written criteria of “neat hairstyle” and “cleanshaven face” with trimmed mustache permitted communicated general rule that employees working at particular facility conform to traditional grooming styles, and supervisor’s application of written policy to forbid ponytails was not an unreasonable or unforeseeable interpretation of policy. D.C. Code 1981, §§ 1-2502(22), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

Employer who seeks to establish a “reasonable business purpose,” under “prescribed standards” exception to prohibition of discrimination on basis of personal appearance only has to show objectively reasonable justification for uniformly regulating its employees’ personal appearances; business purpose need not reach status of a “necessity,” failing which the business cannot be conducted. D.C. Code 1981, §§ 1-2502(22), 1-2503(a), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

While expert testimony established the presence of facial hair may decrease the ability of firefighters to maintain an adequate seal between their masks and their faces, firefighters who wore beards because of folliculitis barbae provided irrefutable physical evidence that bearded firefighters could maintain a proper face-mask seal, therefore, such grooming regulations violated the Human Rights Law. *Kennedy v. Dixon*, 119 WLR 2637 (Super. Ct. 1991).

Public accommodations.

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associated members but which did not operate from any particular place was not “place of public accommodation” under

statute prohibiting sex discrimination in places of public accommodation. D.C. Code 1978 Supp. §§ 6-2202(x), 6-2241(a)(1). *United States Jaycees v. Bloomfield*, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

Sexual harassment.

In determining whether a plaintiff has established a prima facie case of sexual harassment, guidelines of the District government defining "sexual harassment" may be used by trial court. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Sexual harassment which creates a discriminatory environment but does not cause any employee loss of any tangible work benefits such as promotion is nevertheless "discrimination" in a term, condition or privilege of employment, for purposes of the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Source of income.

A claim that a place of public accommodation has violated the Human Rights Act can be based solely on "source of income" discrimination, and "source of income" need not be tied to some other protected class under the Act. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Private social club's proffered reason for expelling member, i.e., his use of club's facilities to conduct business with persons who publicly expounded racist and anti-Semitic views, did not constitute discrimination based on source of income, for purposes of provision of Human Rights Act prohibiting places of public accommodation from discriminating based on source of income. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Transactions in real property.

Tax assessment procedures for proposed initiative (Taxpayers' Right to Know Act) did not involve "transaction in real property" within meaning of statutory prohibition against unlawful discrimination in real estate transactions. D.C. Code 1981, §§ 1-2502(30), 1-2515. *Hessey v. Burden*, 615 A.2d 562, 1992 D.C. App.

LEXIS 280 (1992), remanded by, appeal dismissed sub nomine *Price v. District of Columbia Bd. of Elections & Ethics*, 645 A.2d 594, 1994 D.C. App. LEXIS 121 (D.C. 1994).

University recognition.

"Endorsement" implicit in private religious university's official "university recognition" status for student groups was not "facilities and services" within meaning of Human Rights Act; thus, university could not be compelled to grant homosexual student groups that status. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; U.S. Const. Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university's denial of official "university recognition" to homosexual student group, which had made no statements as to propriety of homosexual conduct, but merely endeavored to provide homosexuals with information and community services, demonstrated that university was denying such status not on basis that stated objectives of group violated its religious creed, but by sexual orientation of its members; thus, while university could not be compelled to "recognize" group under Human Rights Act, it could not deny incidental tangible benefits which accompanied such recognition. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Unwelcome conduct.

For purposes of establishing a prima facie case of sexual harassment, "unwelcome" conduct is conduct which the employee did not solicit or incite and which the employee regarded as undesirable or offensive. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

§ 2-1401.03. Exceptions.

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that such practice is not intentionally devised or operated to contravene the prohibitions of this chapter and can be justified by business necessity. Under this chapter, a "business necessity" exception is applicable only in each individual case where it can be proved by a respondent that, without such exception, such business cannot be conducted; a "business necessity" exception cannot be justified by the facts of increased cost to

business, business efficiency, the comparative characteristics of one group as opposed to another, the stereotyped characterization of one group as opposed to another, and the preferences of co-workers, employers, customers or any other person. The business necessity exemption is inapplicable to complaints of unlawful discrimination in residential real estate transactions and to complaints alleging violations of the Fair Housing Act, approved April 11, 1968 (42 U.S.C. § 3601 et seq.) (“FHA”).

(b) Nothing in this chapter shall be construed to bar any religious or political organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious or political organization, from limiting employment, or admission to or giving preference to persons of the same religion or political persuasion as is calculated by the organization to promote the religious or political principles for which it is established or maintained.

(c) Nothing in this chapter shall be construed to supersede any federal rule, regulation or act.

(d) Nothing in this chapter shall prohibit any religious organization, association, or society or non-profit organization which is operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sales, rental or occupancy of housing accommodations which it owns or operates for other than a commercial purpose to members of the same religion or organization, or from giving preference to these persons, unless the entity restricts its membership on the basis of race, color, or national origin. This chapter does not prohibit a private club, not open to the public, which incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of these lodgings to its members or from giving preference to its members.

(e) Nothing in this chapter shall prohibit an employer, an employment agency, or a labor organization from seeking, obtaining, or using genetic information to determine the existence of a bona fide occupational qualification reasonably necessary for the normal operation of an employer’s business or enterprise; provided, that the employee or applicant for employment provides, in writing, his or her informed consent, the genetic information is provided to the employee or applicant for employment in writing as soon as it is available, and the genetic information is not disclosed to any other person.

(f) Nothing in this chapter shall prohibit an employer from seeking, obtaining, or using genetic information about an employee to:

(1) Investigate a workers’ compensation or disability compensation claim;
or

(2) Determine an employee’s susceptibility or level of exposure to potentially toxic substances in the workplace; provided, that the employee provides, in writing, his or her informed consent, and the genetic information is provided to the employee in writing as soon as it is available, and the genetic information is not disclosed to any other person.

(Dec. 13, 1977, D.C. Law 2-38, title I, § 103, 24 DCR 6038; Apr. 20, 1999, D.C.

Law 12-242, § 2(c), 46 DCR 952; Apr. 12, 2000, D.C. Law 13-91, § 159(b), 47 DCR 520; Apr. 5, 2005, D.C. Law 15-263, § 2(c), 52 DCR 237.)

Section references. — This section is referred to in § 2-1402.41.

Prior Codifications. — 1981 Ed., § 1-2503. 1973 Ed., § 6-2203.

Effect of amendments. — D.C. Law 13-91 validated a previously made technical correction in subsec. (d).

D.C. Law 15-263 added subsecs. (e) and (f).

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

Legislative history of Law 15-263. — For Law 15-263, see notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Business necessity.

Free exercise of religion.

Nationally chartered organizations.

Business necessity.

Once plaintiff establishes that business practice has discriminatory effect, as required to establish liability under District of Columbia Human Rights Act (DCHRA), defendant can defend against liability by showing that exception to DCHRA justifies discriminatory effect. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

“Business necessity” exception to liability under District of Columbia Human Rights Act (DCHRA) requires much more than showing difficulty in conducting business by non-discriminatory means; rather, defendant must show that, without exception, defendant’s business could not be conducted. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Cab company that was sued by prospective taxi patrons, stemming from company’s alleged failure to provide adequate service to predominantly African-American quadrant of city, failed to present any evidence that its practices constituted valid “business necessity,” as required to rebut patrons’ prima facie case of race-based discrimination under District of Columbia Human Rights Act (DCHRA). *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

The business necessity exception in the District of Columbia Human Rights Act (DCHRA) should be interpreted narrowly and with the greatest of caution. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Business necessity exception to Human Rights Act requires a good deal more than mere difficulty in conducting business by nondiscriminatory means. D.C. Code 1981, § 1-2503(a).

Natural Motion by Sandra, Inc. v. District of Columbia Comm’n on Human Rights, 687 A.2d 215, 1997 D.C. App. LEXIS 2 (1997).

Business necessity exception to Human Rights Act was not applicable because there was no documented proof that employer suffered significant loss from reduced attendance of employee who had Acquired Immune Deficiency Syndrome (AIDS). D.C. Code 1981, § 1-2503(a). *Natural Motion by Sandra, Inc. v. District of Columbia Comm’n on Human Rights*, 687 A.2d 215, 1997 D.C. App. LEXIS 2 (1997).

Employer who seeks to establish a “reasonable business purpose,” under “prescribed standards” exception to prohibition of discrimination on basis of personal appearance only has to show objectively reasonable justification for uniformly regulating its employees’ personal appearances; business purpose need not reach status of a “necessity,” failing which the business cannot be conducted. D.C. Code 1981, §§ 1-2502(22), 1-2503(a), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

Landlord’s discriminatory refusal to provide plumbing services to tenant who had Acquired Immune Deficiency Syndrome (AIDS), unless tenant obtained medical certification that premises were safe, was not justified under business necessity exception of Human Rights Act, even if plumbing service was source of bias and finding another plumber would have been financially difficult; plumbing service was landlord’s agent, and landlord did not actually attempt to hire another plumber, or to educate plumbing service about AIDS. D.C. Code 1981, §§ 1-2503(a), 1-2515(a)(4). *Joel Truitt Management v. District of Columbia Comm’n on Human Rights*, 646 A.2d 1007, 1994 D.C. App. LEXIS 140 (1994).

Denial of homosexual patient’s access to hospital’s psychiatric unit was based upon hospital’s perception of Human Immuno-deficiency

Virus (HIV) infection in violation of Human Rights Act, where hospital made no claim or showing of business necessity for denial of access. D.C. Code 1981, §§ 1-2503(a), 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Free exercise of religion.

Private Catholic university, despite its presence as secular learning institution, met requirements to assert free exercise of religion defense against District of Columbia civil rights statute, forbidding discrimination on basis of sexual orientation; university could have both secular and sectarian characteristics. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university's acceptance of federal funds on condition they not be used for religious work or sectarian activity did not operate to waive university's free exercise defense against District of Columbia civil rights statute forbidding discrimination on basis of sexual orientation. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; Higher Education Act of 1965, § 781(c), as amended, 20 U.S.C. § 1132e(c); U.S.C. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Homosexual student groups, in suit to compel Catholic university to grant them official "university recognition" and attendant benefits under District of Columbia civil rights statute, lacked standing to challenge university's free exercise defense as violation of establishment clause, as group sought only incomplete enforcement of clause and named no responsible government party to suit. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university's denial of official "university recognition" to homosexual student group, which had made no statements as to

propriety of homosexual conduct, but merely endeavored to provide homosexuals with information and community services, demonstrated that university was denying such status not on basis that stated objectives of group violated its religious creed, but by sexual orientation of its members; thus, while university could not be compelled to "recognize" group under Human Rights Act, it could not deny incidental tangible benefits which accompanied such recognition. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university's "university recognition" student group status contained implicit "endorsement" of that group; thus, university could not be compelled under Human Rights Act to grant recognition status to homosexual student groups. D.C. Code 1981, § 1-2520; U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

One who invokes free exercise clause in order to gain exemption from government imposed obligation, must initially establish that forced compliance with regulation will impose burden on his religious exercise; upon such a showing, exemption must be granted unless government can demonstrate it has compelling or overriding interest in enforcing challenge regulation; if so, court must assure itself compelling government interest outweighs burden imposed and that regulation is least restrictive means of attaining that end. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Nationally chartered organizations.

Nationally chartered corporations, such as the Paralyzed Veterans of America (PVA) are typically governed by state law, and the operating presumption should be that Congress had no intent to override local law by chartering a national corporation; thus, Congress' chartering of PVA should not be seen as implicitly overriding the D.C. Human Rights Act. *Ortner v. Paralyzed Veterans of Am.*, 120 WLR 193 (Super. Ct. 1992).

§ 2-1401.04. Severability of provisions.

If any provision, or part thereof of this chapter or application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision, or part thereof, to other persons not similarly situated or to other circumstances is not to be affected thereby.

(Dec. 13, 1977, D.C. Law 2-38, title I, § 104, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2504.
1973 Ed., § 6-2204.

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 2-38. — For

§ 2-1401.05. Discrimination based on pregnancy, childbirth, related medical conditions, or breastfeeding.

(a) For the purposes of interpreting this chapter, discrimination on the basis of sex shall include, but not be limited to, discrimination on the basis of pregnancy, childbirth, related medical conditions, or breastfeeding.

(b) Women affected by pregnancy, childbirth, related medical conditions, or breastfeeding shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and this requirement shall include, but not be limited to, a requirement that an employer must treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other employees with temporary disabilities.

(Dec. 13, 1977, D.C. Law 2-38, title I, § 105, as added July 17, 1985, D.C. Law 6-8, § 2, 32 DCR 2959; Apr. 24, 2007, D.C. Law 16-305, § 10, 53 DCR 6198; Dec. 11, 2007, D.C. Law 17-58, § 2(a), 54 DCR 10714.)

Prior Codifications. — 1981 Ed., § 1-2505.

Effect of amendments. — D.C. Law 16-305, in subsec. (b), substituted “employees with temporary disabilities” for “temporarily disabled employees”.

D.C. Law 17-58, in the section heading and subsecs. (a) and (b), substituted “related medical conditions, or breastfeeding” for “or related medical conditions”.

Legislative history of Law 6-8. — Law 6-8, the “Pregnancy Anti-Discrimination Act of 1985,” was introduced in Council and assigned Bill No. 6-45, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on first and second readings on April 16, 1985 and April 30, 1985, respectively. Signed by the Mayor on May 16, 1985, it was assigned Act No. 6-21 and trans-

mitted to both Houses of Congress for its review.

Legislative history of Law 16-305. — For Law 16-305, see notes following § 2-301.07.

Legislative history of Law 17-58. — Law 17-58, the “Child’s Right to Nurse Human Rights Amendment Act of 2007,” was introduced in Council and assigned Bill No. 17-133 which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 17, 2007, it was assigned Act No. 17-132 and transmitted to both Houses of Congress for its review. D.C. Law 17-58 became effective on December 11, 2007.

CASE NOTES

ANALYSIS

Burden of proof.
Discovery.
Elements.
Pregnancy in general.
Summary judgment.
Weight and sufficiency.

Burden of proof.

Under McDonnell Douglas, employee alleging violations of Pregnancy Discrimination Act, FMLA, or District of Columbia Human Rights Act has to establish prima facie case of discrimination, at which point employer has to produce evidence articulating a legitimate, nondiscriminatory reason for its actions, after which em-

ployee has to produce substantial probative evidence that proffered reason was not the true reason, and that the real reason was discriminatory animus. Civil Rights Act of 1964, § 701(k), as amended, 42 U.S.C. § 2000e(k); Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C. § 2601 et seq.; D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Once a presumption of discrimination is raised under the District of Columbia Human Rights Act (DCHRA) by employee's prima facie case, the burden shifts to the employer to rebut it by articulating some legitimate, nondiscriminatory reasons for the employment action. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), once employer articulates legitimate, nondiscriminatory reasons for the employment action, the burden shifts back to the employee to prove, by a preponderance of the evidence, that the employer's stated justification for its action was not its true reason but was in fact merely a pretext to disguise discriminatory practice. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Discovery.

Former employee's uncooperativeness during her deposition was not substantially justified, in her suit claiming that employer denied her medical leave in violation of District of Columbia Family and Medical Leave Act (DCFMLA), discriminated against her when she became pregnant, and failed to accommodate her panic anxiety syndrome under District of Columbia Human Rights Act (DCHRA), and thus, sanction was warranted entitling employer to award of reasonable expenses, including attorney fees and costs related to motion to compel discovery. *Jackson v. CCA of Tenn., Inc.*, 254 F.R.D. 135, 2008 U.S. Dist. LEXIS 97063 (2008).

Former employee's medical and work history information requested at her deposition was not privileged, warranting discovery of such information in employee's suit claiming that employer denied employee medical leave in violation of District of Columbia Family and Medical Leave Act (DCFMLA), discriminated against her when she became pregnant, and failed to accommodate her panic anxiety syndrome under District of Columbia Human Rights Act (DCHRA), since employer's inquiries relating to employee's medical and work history were not harassment, but rather, were relevant both to claims and defense. *Jackson v.*

CCA of Tenn., Inc., 254 F.R.D. 135, 2008 U.S. Dist. LEXIS 97063 (2008).

Elements.

To establish prima facie case of pregnancy discrimination under District of Columbia Human Rights Act (DCHRA), plaintiff must establish: (1) that she was pregnant; (2) that she was qualified for position; (3) that she was affected by adverse employment decision; and (4) that adverse employment decision occurred under circumstances giving rise to inference of discrimination, or that there is causal nexus between her pregnancy and adverse employment decision, or that after her termination position remained open or was filled by someone of comparable qualifications who was not pregnant. D.C. Code 1981, § 1-2505. *Pendarvis v. Xerox Corp.*, 3 F.Supp.2d 53, 1998 U.S. Dist. LEXIS 6481 (1998).

Pregnancy in general.

Employee allegedly terminated because of her sex, as exemplified by her pregnant condition, and because of her family responsibilities, including her refusal to have abortion, stated cognizable claim for unlawful discharge under District of Columbia's public policy exception to rule that at-will employees are subject to termination for any reason; District of Columbia Human Rights Act prohibited discrimination based on sex, including pregnancy and childbirth, and on family responsibilities. D.C. Code 1981, §§ 1-2501, 1-2505. *MacNabb v. MacCartee*, 804 F. Supp. 378, 1992 U.S. Dist. LEXIS 16265 (1992).

To extent that pregnant employee identified Civil Rights Act as source of alleged public policy against exposing pregnant women to radiation, employee could not state claim for wrongful discharge in violation of public policy; Act requires that pregnant women not be discriminated against nor denied employment opportunity due to pregnancy and does not create any special dispensation for pregnant women, and women are left with choice whether to work under conditions at issue. D.C. Code 1981, § 1-2505. *Duncan v. Children's Nat'l Med. Ctr.*, 702 A.2d 207, 1997 D.C. App. LEXIS 260 (1997), writ of certiorari denied by 525 U.S. 912, 119 S. Ct. 257, 142 L. Ed. 2d 211, 1998 U.S. LEXIS 6238, 67 U.S.L.W. 3238 (1998).

Human Rights Act does not create special dispensation for pregnant women, but only requires that they not be discriminated against nor denied any employment opportunity due to pregnancy. D.C. Code 1981, § 1-2505. *Duncan v. Children's Nat'l Med. Ctr.*, 702 A.2d 207, 1997 D.C. App. LEXIS 260 (1997), writ of certiorari denied by 525 U.S. 912, 119 S. Ct. 257, 142 L. Ed. 2d 211, 1998 U.S. LEXIS 6238, 67 U.S.L.W. 3238 (1998).

Exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan did not constitute a violation of District of Columbia Human Rights Law prohibiting employers from treating marriage or lack of marriage as a lawful factor to be considered in hire, tenure or conditions of employment, and prohibiting disparate treatment of married and unmarried mothers, because with respect to such plan, there was no evidence whatsoever of discrimination on basis of marital status. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Company-paid sick leave and benefit plan, which excluded pregnancy-related disabilities, did not amount to discrimination against persons with "family responsibilities," a prohibited practice under District of Columbia Human Rights Law, because once actual dependency occurs, a mother is free and clear under maternity leave clause to resume employment whenever her health permits, and because it would be a strange paradox to condemn as discriminatory a practice which might hurt a person's "potential" for family responsibilities, but harms not in slightest persons whose family responsibilities have indeed materialized. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Provision of District of Columbia Human Rights Law which added to categories protected against discrimination did not compel finding that exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan violated Human Rights Law. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Summary judgment.

Fact questions as to whether employee was terminated because of her pregnancy, rather than unexcused absences in violation of company policy and terms of her probation, precluded summary judgment for former employer in former employee's pregnancy discrimination suit under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2505. *Pendarvis v. Xerox Corp.*, 3 F.Supp.2d 53, 1998 U.S. Dist. LEXIS 6481 (1998).

Alternative argument by District of Columbia (DC) for affirmance of summary judgment entered in its favor on limitations and notice grounds on former employee's disability discrimination claims under Rehabilitation Act and DC's Human Rights Act, that former employee failed to establish prima facie case of disability discrimination, was premature and

thus argument would not be considered by the Court of Appeals; there were unresolved discovery questions raised by former employee in affidavit opposing summary judgment, and his claimed need to depose his former superior was not implausible. *Jaiyeola v. District of Columbia*, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Weight and sufficiency.

Employee established prima facie case under Pregnancy Discrimination Act and District of Columbia Human Rights Act by establishing that she was pregnant, she was qualified, she was fired, she was replaced by woman who was not pregnant, and her replacement performed employee's former job while devoting at least some of her time to other responsibilities. Civil Rights Act of 1964, § 701(k), as amended, 42 U.S.C. § 2000e(k); D.C. Code 1981, § 1-2501 et seq. *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 199 F.3d 1365, 2000 U.S. App. LEXIS 256 (C.A.D.C. 2000).

Employer presented sufficient evidence that employee was terminated because she refused to work on a full-time schedule when her full-time attention to the job was needed and when she was not disabled in any way by her pregnancy, and therefore employer was not liable under Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k), the District of Columbia Human Rights Act and the Family and Medical Leave Act; there was no evidence from which a jury could reasonably find a causal link between employer's request that employee resume a full-time schedule and the impending birth of her child four months later. *Family and Medical Leave Act of 1993*, § 2 et seq., 29 U.S.C. § 2601 et seq.; Civil Rights Act of 1964, § 701(k), 42 U.S.C. § 2000e(k); D.C. Code 1981, § 1-2505(b). *Gleklen v. Democratic Congressional Campaign Comm., Inc.*, 38 F.Supp.2d 18, 1999 U.S. Dist. LEXIS 4278 (1999), affirmed by 199 F.3d 1365, 339 U.S. App. D.C. 354, 2000 U.S. App. LEXIS 256, 77 Empl. Prac. Dec. (CCH) P46204, 82 Fair Empl. Prac. Cas. (BNA) 11, 5 Wage & Hour Cas. 2d (BNA) 1577 (2000).

Employee failed to show that she suffered adverse employment action as would support prima facie case of discrimination based on pregnancy in violation of District of Columbia Human Rights Act (DCHRA), Family Medical Leave Act (FMLA) or Title VII and to show public policy exception to rule that at will employee can be terminated without cause. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C. § 2601 et seq. *Lempres v. CBS Inc.*, 916 F. Supp. 15, 1996 U.S. Dist. LEXIS 2324 (1996).

Employee did not show that she was subject to adverse employment action as would support

prima facie case of discrimination under District of Columbia Human Rights Act (DCHRA) in order to demonstrate violation of DCHRA within statutory one-year time period; telephone calls between employee's supervisor and employee in which she was offered her former

position after she returned from maternity leave and in which employee brought up part-time work option after she had her second child did not show adverse action. D.C. Code 1981, § 1-2544(a). *Lempres v. CBS Inc.*, 916 F. Supp. 15, 1996 U.S. Dist. LEXIS 2324 (1996).

Subchapter II. Prohibited Acts of Discrimination.

PART A.

GENERAL.

§ 2-1402.01. General.

Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 201, 24 DCR 6038.)

Cross references. — Public accommodations licensed by District, prohibition against discrimination, see § 47-2901 et seq.

Section references. — This section is referred to in § 2-1403.01.

Prior Codifications. — 1981 Ed., § 1-2511. 1973 Ed., § 6-2211.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Mayor's Orders. — Establishment of Department of Human Rights and Minority Business Development: See Mayor's Order 89-247, November 1, 1989.

CASE NOTES

ANALYSIS

Contracts.
Damages.
Discrimination, generally.
Evidence.
Hostile work environment.
Jury selection.
Law governing.
Liability insurance.
Marital relationship.
Statute of limitations.

Contracts.

District of Columbia Human Rights Act provision guaranteeing opportunity to participate equally in economic life of District protected only activities that were specifically enumerated within statute and did not include action based on wrongful termination of contract. D.C. Code 1981, § 1-2511. *Gersman v. Group Health Ass'n*, 931 F.2d 1565, 1991 U.S. App. LEXIS 8486 (C.A.D.C. 1991), vacated by, remanded by

502 U.S. 1068, 112 S. Ct. 960, 117 L. Ed. 2d 127, 1992 U.S. LEXIS 655, 60 U.S.L.W. 3519, 58 Empl. Prac. Dec. (CCH) P41300 (1992).

Impinging upon full participation in economic life of District of Columbia by terminating contract because corporate president was Jewish was permitted, where there was no violation of equal opportunity to participate in employment, places of public accommodation, resort or amusement, educational institutions, public service, housing, or commercial space accommodations. D.C. Code 1981, § 1-2511. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Damages.

Under D.C. Human Rights Act (DCHRA), plaintiff may recover compensatory damages for humiliation, embarrassment, and emotional pain and suffering. D.C. Code 1981, § 1-2519.

Sumes v. Andres, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Award of \$10,000 in compensatory damages was appropriate under Rehabilitation Act and D.C. Human Rights Act (DCHRA) for deaf patient's humiliation, embarrassment, and emotional pain and suffering caused by obstetrician's refusal to provide her prenatal services. Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794; D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Discrimination, generally.

In determining whether a statement made by a defendant against a plaintiff was discriminatory in violation of federal statute prohibiting discrimination against participant in program receiving federal financial assistance or the District of Columbia Human Rights Act (DCHRA), courts are not permitted to go beyond the language of the statement at issue to find inferences of bias where none exist. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Obstetrician had no legitimate, nondiscriminatory reason for refusing prenatal services to deaf patient, where he failed to learn anything about her medical history before he refused to treat her, and therefore, obstetrician violated D.C. Human Rights Act (DCHRA). D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Elevator manufacturer did not violate District of Columbia Human Rights Act when it refused to enter into contract to maintain elevators it installed in apartment complex in which residents were primarily black, handicapped or elderly, absent showing that manufacturer's refusal to deal was discriminatory, rather than motivated by legitimate business reasons. D.C. Code 1981, §§ 1-2501 et seq., 1-2511, 1-2515, 1-2519. *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 728 F. Supp. 24, 1990 U.S. Dist. LEXIS 322 (1990), affirmed in part and vacated in part by 929 F.2d 714, 289 U.S. App. D.C. 121, 1991 U.S. App. LEXIS 5392 (1991).

District Council was not obliged to allow initiatives that would have had the effect of authorizing discrimination prohibited by the Human Rights Act to be put to voters, and then to repeal them, or to wait for them to be challenged as having been improper subjects of initiative, should they be approved by voters; rather, the Council was authorized under the Home Rule Act to legislate, as it did through the Initiative Procedures Act (IPA), that the Board of Elections and Ethics must refuse to accept initiatives and referenda that would authorize prohibited discrimination. *Jackson v. D.C. Bd. of Elections & Ethics*, 999 A.2d 89,

2010 D.C. App. LEXIS 400 (2010), writ of certiorari denied by 131 S. Ct. 1001, 178 L. Ed. 2d 827, 2011 U.S. LEXIS 730, 79 U.S.L.W. 3419 (U.S. 2011).

At-will employee did not have cause of action against her former employer for wrongful discharge based on Human Rights Act, absent showing she was victim of discrimination. D.C. Code 1981, §§ 1-2511 et seq., 1-2512(a). *Sorrells v. Garfinckel's, Brooks Bros., Miller & Rhoads, Inc.*, 565 A.2d 285, 1989 D.C. App. LEXIS 207 (1989).

Human Rights Act not only forbade discrimination against protected groups, such as sexual orientation, but also forbade practices which had disparate impact upon protected classes, unless that practice had nondiscriminatory justification. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Amendment of Human Rights Act to make specific reference to automobile insurance policies supported conclusion that Act was not intended to regulate pricing of insurance policies; amendment referring to automobile policies was limited to automobile insurance and did not refer to discrimination in insurance rates. D.C. Code 1981, §§ 1-2501 to 1-2557. *NOW v. Mutual of Omaha Ins. Co.*, 531 A.2d 274, 1987 D.C. App. LEXIS 438 (1987).

Assuming insured's condition of morbid obesity was a "disability" for purposes of the District of Columbia Human Rights Act (DCHRA), exclusion in health insurance policy for weight modification or surgical treatment of obesity was not facially discriminatory. *Flecha de Lima v. International Medical Group*, 132 WLR 2569 (Super. Ct. 2004).

District of Columbia Human Rights Act (DCHRA) did not bar exclusion in health insurance policy for weight modification or surgical treatment of obesity. *Flecha de Lima v. International Medical Group*, 132 WLR 2569 (Super. Ct. 2004).

Evidence.

Female employees who brought suit under the District of Columbia Human Rights Act alleging they were sexually harassed by certain male coemployees could not be compelled to answer interrogatory insofar as it asked them whether they had sexual relationships with employees not named as harassers, on theory that such evidence was relevant to determination whether alleged harassers reasonably believed that their sexual advances were welcome; relationships that alleged harassers had no knowledge of could not be relevant, and even if such knowledge existed, probative force of such evidence did not substantially outweigh

harm to plaintiffs caused by such disclosure. D.C. Code 1981, § 1-2511 et seq.; Fed.R.Civ.Proc. Rule 26(e), 18 U.S.C.; Fed.Rules Evid.Rule 412(b)(2), 18 U.S.C. Howard v. Historic Tours of Am., 177 F.R.D. 48, 1997 U.S. Dist. LEXIS 21283 (1997).

Hostile work environment.

Neither Title VII, § 1981, nor District of Columbia Human Rights Law creates cognizable hostile environment discrimination claim against co-worker. 42 U.S.C. § 1981; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. Hodges v. Washington Tennis Serv. Int'l, 870 F. Supp. 386, 1994 U.S. Dist. LEXIS 18191 (1994).

Employer was not liable under Title VII, § 1981, or District of Columbia Human Rights Law to employees for racially hostile environment allegedly created by co-worker's racial remark; supervisor on duty at time of remark took steps to determine what had happened as soon as remark was reported and confronted co-worker same day, as result, co-worker apologized to employees within 24 hours, after further investigation over period of 12 days, employer took decisive action of dismissing co-worker, there were no further incidents, and, while remark was offensive, it was neither threatening nor targeted at employees. 42 U.S.C. § 1981; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. Hodges v. Washington Tennis Serv. Int'l, 870 F. Supp. 386, 1994 U.S. Dist. LEXIS 18191 (1994).

Jury selection.

District of Columbia Human Rights Act (DCHRA) does not prohibit use of peremptory challenges based on age. D.C. Code 1981, §§ 1-2511, 23-105(a). Evans v. United States, 682 A.2d 644, 1996 D.C. App. LEXIS 175 (1996).

Law governing.

The legal standard for discrimination under the District of Columbia Human Rights Act (DCHRA) is substantively the same as under Title VII. Dickerson v. SecTek, Inc., 238

F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Elements of denial of promotion claim are the same under § 1981 and under District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2511, 1-2512. Beckwith v. Career Blazers Learning Ctr., 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Liability insurance.

Under District of Columbia law, discrimination exclusion in endorsement to commercial general liability (CGL) insurance policy, barring coverage for discrimination charges of any kind, precluded coverage for insured nightclub, in lawsuit brought by patron, alleging that he was singled out for abuse by insured's employees because of his ethnicity, and retaliated against, in violation of the District of Columbia Human Rights Act (DCHRA). Essex Ins. Co. v. Night & Day Mgmt., LLC, 536 F.Supp.2d 53, 2008 U.S. Dist. LEXIS 12896 (2008).

Marital relationship.

The City Council consciously chose not to make the language of the Human Rights Act applicable to regulation of the marital relationship. Dean v. District of Columbia, 120 WLR 769 (Super. Ct. 1991).

Statute of limitations.

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied to employee's employment discrimination claim against employer. Potts v. Howard Univ. Hosp., 598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

Filing of sex discrimination claim with District of Columbia Office of Human Rights did not toll one-year statute of limitations claim against union official under District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2511, 1-2512, 1-2544(a), 1-2556. Weiss v. International Brotherhood of Electrical Workers, 729 F. Supp. 144, 1990 U.S. Dist. LEXIS 902 (1990).

PART B.

EMPLOYMENT.

§ 2-1402.11. Prohibitions.

(a) *General.* — It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression,

family responsibilities, genetic information, disability, matriculation, or political affiliation of any individual:

(1) *By an employer.* — To fail or refuse to hire, or to discharge, any individual; or otherwise to discriminate against any individual, with respect to his compensation, terms, conditions, or privileges of employment, including promotion; or to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee;

(2) *By an employment agency.* — To fail or refuse to refer for employment, or to classify or refer for employment, any individual, or otherwise to discriminate against, any individual; or

(3) *By a labor organization.* — To exclude or to expel from its membership, or otherwise to discriminate against, any individual; or to limit, segregate, or classify its membership; or to classify, or fail, or refuse to refer for employment any individual in any way, which would deprive such individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment; or

(4) *By an employer, employment agency or labor organization.* —

(A) To discriminate against any individual in admission to or the employment in, any program established to provide apprenticeship or other training or retraining, including an on-the-job training program;

(B) To print or publish, or cause to be printed or published, any notice or advertisement, or use any publication form, relating to employment by such an employer, or to membership in, or any classification or referral for employment by such a labor organization, or to any classification or referral for employment by such an employment agency, unlawfully indicating any preference, limitation, specification, or distinction, based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, matriculation, genetic information, disability, or political affiliation of any individual.

(C) To request or require a genetic test of, or administer a genetic test to, any individual as a condition of employment, application for employment, or membership, or to seek to obtain, obtain, or use genetic information of an employee or applicant for employment or membership.

(b) *Subterfuge.* — It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, matriculation, genetic information, disability, or political affiliation of any individual.

(c) *Accommodation for religious observance.* —

(1) It shall further be an unlawful discriminatory practice for an employer to refuse to make a reasonable accommodation for an employee's religious observance by permitting the employee to make up work time lost due to such

observance, unless such an accommodation would cause the employer undue hardship. An accommodation would cause an employer undue hardship when it would cause the employer to incur more than de minimis costs.

(2) Such an accommodation may be made by permitting the employee to work:

- (A) During the employee's scheduled lunch time or other work breaks;
- (B) Before or after the employee's usual working hours;
- (C) Outside of the employer's normal business hours;
- (D) During the employee's paid vacation days;
- (E) During another employee's working hours as part of a voluntary swap with such other employee; or
- (F) In any other manner that is mutually agreeable to the employer and employee.

(3) When an employee's request for a particular form of accommodation would cause undue hardship to the employer, the employer shall reasonably accommodate the employee in a manner that does not cause undue hardship to the employer. Where other means of accommodation would cause undue hardship to the employer, an employee shall have the option of taking leave without pay if granting leave without pay would not cause undue hardship to the employer.

(4) An employee shall notify the employer of the need for an accommodation at least 10 working days prior to the day or days for which the accommodation is needed, unless the need for the accommodation cannot reasonably be foreseen.

(5) In any proceeding brought under this section, the employer shall have the burden of establishing that it would be unable reasonably to accommodate an employee's religious observance without incurring an undue hardship, provided, however, that in the case of an employer that employs more than 5 but fewer than 15 full-time employees, or where accommodation of an employee's observance of a religious practice would require the employee to take more than 3 consecutive days off from work, the employee shall have the burden of establishing that the employer could reasonably accommodate the employee's religious observance without incurring an undue hardship; and provided further, that it shall be considered an undue hardship if an employer would be required to pay any additional compensation to an employee by reason of an accommodation for an employee's religious observance. The mere assumption that other employees with the same religious beliefs might also request accommodation shall not be considered evidence of undue hardship. An employer that employs 5 or fewer full-time employees shall be exempt from the provisions of this subsection.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 211, 24 DCR 6038; Mar. 17, 1993, D.C. Law 9-211, § 2, 40 DCR 21; June 28, 1994, D.C. Law 10-129, § 2(c), 41 DCR 2583; Oct. 1, 2002, D.C. Law 14-189, § 2(b), 49 DCR 6523; Apr. 5, 2005, D.C. Law 15-263, § 2(d), 52 DCR 237; Mar. 8, 2006, D.C. Law 16-58, § 2(c), 53 DCR 14.)

Cross references. — Bonds and construction procurement, construction contracts and subcontracts, nondiscrimination provisions, see § 2-305.08.

Employment services, discrimination prohibited, see § 32-408.

Prior Codifications. — 1981 Ed., § 1-2512. 1973 Ed., § 6-2221.

Effect of amendments. — D.C. Law 14-189, in subsecs. (a) and (b), substituted “actual or perceived: race” for “race”.

D.C. Law 15-263, in subsecs. (a) and (b), substituted “genetic information, disability,” for “disability,” and added subpar. (C) of par. (4) of subsec. (a).

D.C. Law 16-58, in the lead-in language of subsec. (a), subsec. (a)(4)(B), and subsec. (b), substituted “sexual orientation, gender identity or expression,” for “sexual orientation,”.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 9-211. — Law 9-211, the “Human Rights Act of 1977 Religious Observance Accommodation Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-276, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 4, 1992, and December 1, 1992, respectively. Signed by the Mayor on December 21, 1992, it was assigned Act No. 9-340 and transmitted to both Houses of Congress for its review. D.C. Law 9-211 became effective on March 17, 1993.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 1-2501.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 15-263. — For Law 15-263, see notes following § 2-1401.01.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

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Adverse employment action.

For purposes of District of Columbia Human Rights Act, even a lateral transfer that results

in withdrawal of an employee's supervisory duties constitutes an "adverse employment action," as does a reassignment with significantly different responsibilities. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

An employee suffers an "adverse employment action" for purposes of District of Columbia Human Rights Act if he experiences materially adverse consequences affecting the terms, conditions, or privilege of employment or future employment opportunities such that a trier of fact could find objectively tangible harm; a tangible employment action constitutes a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Employee's non-promotion to partner during three partner admission cycles constituted adverse employment action, for purposes of employee's age discrimination claims against employer brought under the ADEA and the District of Columbia Human Rights Act (DCHRA); although employee would have only been able to take advantage of the benefits of partnership for a limited time and would have lost substantial retirement and retiree health care benefits he now received as a retired employee, employee was denied corresponding nonmonetary benefits in terms of increased status and the potential future employment opportunities. *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 4, 2008 U.S. Dist. LEXIS 72982 (2008).

Employer takes an adverse personnel action for a discriminatory or retaliatory reason when the action is induced by and effectuates the illicit design of a lower-level supervisor, even if the implementing officials are an unwitting conduit; on the other hand, adverse personnel action is not improper when the deciding authorities independently determine that the action is warranted for permissible reasons, even if the catalyst for their review was the report by a biased subordinate. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

Although employee's job termination was inherently an "adverse employment action," he did not meet the "satisfactory performance" criterion required for his religious discrimination claim, and as such, he did not establish that employer discriminated against him because of his refusal to accept overtures to join a particular church; employee's superiors advised him on numerous occasions that he needed to

work on delegating tasks to his subordinates and on improving the morale within his team, employee had been combative when instructed to attend a team-building seminar, and employee had been suspended for a week for insubordination and for making vulgar remarks and physical threats. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

Affirmative action plans.

Under District of Columbia law, employer could make unilateral changes to its affirmative action plan suggesting that the plan did not confer contractual rights on employees. *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1996 U.S. App. LEXIS 30826 (C.A.D.C. 1996), writ of certiorari denied by 520 U.S. 1197, 117 S. Ct. 1553, 137 L. Ed. 2d 701, 1997 U.S. LEXIS 2690, 65 U.S.L.W. 3727 (1997).

Burden of proof.

— In general.

In suit brought pursuant to Title VII, District of Columbia Human Rights Act (DCHRA) or ADA, employee may prove his claim of discrimination indirectly under McDonnell Douglas burden-shifting framework, under which employee carries initial burden of establishing, by a preponderance of the evidence, a prima facie case of discrimination. *Thomas v. Gandhi*, 525 F.Supp.2d 103, 2007 U.S. Dist. LEXIS 87858 (2007), affirmed by 377 Fed. Appx. 25, 2010 U.S. App. LEXIS 10674 (D.C. Cir. 2010).

To demonstrate that District of Columbia's failure to promote black employee led to inference of discrimination under §§ 1981 and District of Columbia Human Rights Act (DCHRA), employee had to show that her rejection was not attributable to the two most common legitimate reasons on which employer might rely to reject job applicant, absolute or relative lack of qualifications or absence of vacancy in job sought. *Kennedy v. D.C. Gov't*, 519 F.Supp.2d 50, 2007 U.S. Dist. LEXIS 78203 (2007).

Claims under §§ 1981 and District of Columbia Human Rights Act (DCHRA) analyzed using McDonnell Douglas burden-shifting approach. *Kennedy v. D.C. Gov't*, 519 F.Supp.2d 50, 2007 U.S. Dist. LEXIS 78203 (2007).

Although they may be probative of discrimination, stray remarks do not satisfy a plaintiff's burden of proving discrimination under §§ 1981 or the District of Columbia Human Rights Act (DCHRA) by direct evidence. *Valles-Hall v. Ctr. for Nonprofit Advancement*, 481 F.Supp.2d 118, 2007 U.S. Dist. LEXIS 22046 (2007), appeal dismissed by 2007 U.S. App. LEXIS 20637 (D.C. Cir. Aug. 24, 2007).

To prove a violation of §§ 1981 or the District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate by a preponderance

of the evidence that the actions taken by the employer were more likely than not based on the consideration of impermissible factors such as race, ethnicity, or national origin. *Valles-Hall v. Ctr. for Nonprofit Advancement*, 481 F.Supp.2d 118, 2007 U.S. Dist. LEXIS 22046 (2007), appeal dismissed by 2007 U.S. App. LEXIS 20637 (D.C. Cir. Aug. 24, 2007).

Residential property management company's proffered reasons for terminating black full-time live-in apartment building janitor were legitimate and nondiscriminatory and shifted burden to janitor to show they were pretext for discrimination under District of Columbia Human Rights Act (DCHRA) or §§ 1981; costs were too high for building and payroll therefore needed to be reduced, i.e., one employee would have to be terminated, janitor was chosen rather than maintenance engineer because latter could do some of former's work, but converse was not true, problems existed between janitor and his supervisor, and vice president and director of operations had identified performance deficiencies for janitor. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Former university employee failed to prove that the legitimate, nondiscriminatory reasons asserted by his former employer for each of the adverse actions of which he complained, moving his office to a basement and his nonselection for an equal opportunity officer (EEO) position, were a pretext for discrimination violating §§ 1981 and the D.C. Human Rights Act (DCHRA); he presented no evidence to refute employer's assertions that his office was moved to the basement as part of an office reorganization, and that, even if he did apply for the EEO position, he lacked the requisite qualifications of eight years experience. *Sullivan v. Catholic Univ. of Am.*, 387 F.Supp.2d 11, 2005 U.S. Dist. LEXIS 19399 (2005), dismissed by 2006 U.S. App. LEXIS 13018 (D.C. Cir. May 18, 2006).

At all times, it is employment discrimination plaintiff's burden to persuade trier of fact that employer intentionally discriminated against him or her. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

In order for employment discrimination plaintiff to prevail at trial, based on available evidence presented, jury must be able to infer discrimination from combination of (1) plaintiff's prima facie case, (2) any evidence plaintiff presents to attack employer's proffered explanation for its actions, and (3) any further evidence of discrimination that may be available

to plaintiff such as independent evidence of discriminatory statements or attitudes on part of employer; such evidence may be either direct or circumstantial, but direct evidence may be difficult to produce. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

African-American male employee, who was terminated, did not have to establish that he was replaced by someone outside his protected class in order to satisfy fourth element of prima facie case of race or gender discrimination; rather, employee had to show that employer's decision to terminate him was motivated by his race or gender irrespective of his replacement's race or gender. *Stith v. Chadbourne & Parke, LLP*, 160 F.Supp.2d 1, 2001 U.S. Dist. LEXIS 12857 (2001).

Once employee has established prima facie case, employer may rebut resulting inference of discrimination by producing evidence of legitimate, nondiscriminatory reasons for adverse action, and if employer meets this burden of production, presumption of discrimination raised by employee's prima facie case drops from case. *Carney v. American Univ.*, 960 F. Supp. 436, 1997 U.S. Dist. LEXIS 5284 (1997), affirmed in part and reversed in part by, remanded by 151 F.3d 1090, 331 U.S. App. D.C. 416, 1998 U.S. App. LEXIS 18373, 73 Empl. Prac. Dec. (CCH) P45469, 77 Fair Empl. Prac. Cas. (BNA) 1115, 49 Fed. R. Evid. Serv. (CBC) 1477 (1998).

Once employer articulates legitimate, non-discriminatory reason for adverse employment action, presumption of discrimination drops from case and employee cannot rely on fact that she has met relatively light prima facie requirements. *Carney v. American Univ.*, 960 F. Supp. 436, 1997 U.S. Dist. LEXIS 5284 (1997), affirmed in part and reversed in part by, remanded by 151 F.3d 1090, 331 U.S. App. D.C. 416, 1998 U.S. App. LEXIS 18373, 73 Empl. Prac. Dec. (CCH) P45469, 77 Fair Empl. Prac. Cas. (BNA) 1115, 49 Fed. R. Evid. Serv. (CBC) 1477 (1998).

Although evidence tending to show that plaintiff was terminated for legitimate nondiscriminatory reason must be legally sufficient to justify judgment for employer in age discrimination suit, burden is merely one of production, not one of persuasion. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2512(a). *Goss v. George Washington Univ.*, 942 F. Supp. 659, 1996 U.S. Dist. LEXIS 16271 (1996).

Once plaintiff has established prima facie case of discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., burden of production shifts to

defendants to articulate a legitimate nondiscriminatory reason for plaintiff's discharge, and if defendant's carry that burden, prima facie case is rebutted and burden shifts back to plaintiff to prove by preponderance of evidence that articulated reason was pretextual. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., plaintiff's burden of demonstrating that articulated reason for discharge was pretextual merges with ultimate burden of proving intentional discrimination or retaliation, and in final analysis fact finder must decide whether defendants intentionally discriminated or retaliated against plaintiff. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

If plaintiff in a District of Columbia Human Rights Act (DCHRA) action is able to make out a prima facie case, burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the allegedly discriminatory or retaliatory adverse employment action. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Second step to proving discrimination under the District of Columbia Human Rights Act (DCHRA), requiring plaintiff's employer to articulate a legitimate, nondiscriminatory reason for the allegedly discriminatory or retaliatory adverse employment action, is a minimal burden on the employer and is a burden of production, not a burden of persuasion. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

If plaintiff's employer in a District of Columbia Human Rights Act (DCHRA) action articulates a legitimate reason for the allegedly discriminatory or retaliatory adverse employment decision, and the reason is credible, the burden shifts back to plaintiff to demonstrate that the stated reason was a pretext for discrimination or retaliation. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Male African-American marketing manager for program in university's academic development and continuing education division did not raise inference of purposeful discrimination re-

lating to elimination of his position, for purposes of establishing prima facie case of race discrimination and gender discrimination, in action under District of Columbia Human Rights Act (DCHRA); plaintiff's most important duties were outsourced to a contractor, the duties reassigned to two other employees were less important, and those employees were members same gender or race as plaintiff, i.e., they were an African-American woman and a white man. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Two white women whose jobs allegedly were not eliminated as part of reduction in force (RIF) were not similarly situated with plaintiff male African-American marketing manager for program in university's academic development and continuing education division, for purposes of making prima facie showing of race and gender discrimination under District of Columbia Human Rights Act (DCHRA), relating to elimination of plaintiff's position; position titles for the women were different, as were their duties, which included ordering office supplies, providing computer and system support, and providing implementation assistance to program manager for contracts. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Proof of mere favoritism is insufficient to establish a claim of employment discrimination under the District of Columbia Human Rights Act (DCHRA). *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Under three-part, burden-shifting test articulated by United States Supreme Court for Title VII cases in *McDonnell Douglas Corp. v. Green*, which test is applied in actions for employment discrimination under District of Columbia Human Rights Act (DCHRA), it is the burden of production that shifts; ultimate burden of persuading trier of fact that employer intentionally discriminated against employee remains at all times with employee. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In employment discrimination action under District of Columbia Human Rights Act (DCHRA), if employer, at second part of three-part burden-shifting test, articulates a legitimate, nondiscriminatory basis for its action, burden shifts back to employee to demonstrate that employer's action was pretextual. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

If employee, at first part of three-part burden-shifting test, establishes prima facie case that employer discriminated against him in violation of District of Columbia Human Rights Act (DCHRA), burden shifts to employer to articulate a legitimate basis for its action. Mc-

Farland v. George Washington Univ., 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In an employment discrimination case under the Human Rights Act, if the employer sufficiently articulates a legitimate, nondiscriminatory reason, the employee then bears the ultimate burden of proving by a preponderance of the evidence, and without the benefit of the first stage presumption, that the employer's stated justification for its action was merely a pretext for unlawful discrimination. D.C. Hous. Auth. v. D.C. Office of Human Rights, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

If the employee makes a prima facie showing of employment discrimination under the Human Rights Act, the burden shifts to the employer to rebut it by articulating some legitimate, nondiscriminatory reason for the employment action; the employer can satisfy its burden by producing admissible evidence from which the trier of fact can rationally conclude that the employment action was not motivated by discriminatory animus. D.C. Hous. Auth. v. D.C. Office of Human Rights, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

Employees typically must demonstrate employer failure to discipline and restrain the conduct of harassing subordinates in order to establish vicarious liability for hostile work environment claims. Psychiatric Inst. v. D.C. Comm'n on Human Rights, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Analysis of discrimination claims is three-step process: first, employee must make prima facie showing of discrimination by preponderance of evidence; once that has been done, rebuttable presumption arises that employer's conduct amounted to unlawful discrimination and burden then shifts to employer to rebut presumption by articulating some legitimate, nondiscriminatory reason for employment action at issue; and, finally, if employer has articulated some legitimate, non-discriminatory reason for disputed conduct, burden shifts back to employee to prove, again by preponderance of evidence, that employer's stated justification for its action was not its true reason but was in fact merely pretext to disguise discriminatory practice. Joyner v. Sibley Mem. Hosp., 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

To establish the existence of a hostile work environment, a plaintiff must establish: (1) that he is a member of a protected class; (2) that he has been subjected to unwelcome harassment; (3) that the harassment was based on membership in the protected class; and (4) that the harassment is severe and pervasive enough to affect a term, condition, or privilege of employment. Joyner v. Sibley Mem. Hosp., 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Although the burden of production may shift from the employee to the employer and back to the employee, under the burden-shifting test

for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), the employee retains the ultimate burden of persuading the finder-of-fact that the employer acted with discriminatory animus. Futrell v. Dep't of Labor Fed. Credit Union, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American employee's unsatisfactory job performance as manager of federal credit union, as demonstrated in her performance evaluation and examination report of the National Credit Union Administration (NCUA), provided credit union with legitimate, nondiscriminatory reason for demoting employee, and thus burden shifted to employee to show that such proffered reason was pretext for race or age discrimination in violation of the District of Columbia Human Rights Act (DCHRA), even though employee's performance evaluation occurred after only ten months and allegedly did not give employee sufficient time to incorporate her management training. Futrell v. Dep't of Labor Fed. Credit Union, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under the burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), the burden of showing that the employer's justification for an employment action was merely a pretext for discrimination merges with the employee's ultimate burden of persuasion on the question of intentional discrimination. Futrell v. Dep't of Labor Fed. Credit Union, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American employee's loss of bond coverage, after she used her corporate credit card for personal purchases, provided federal credit union with legitimate, nondiscriminatory reason for terminating employee, and thus burden shifted to employee to show that such proffered reason was pretext for race or age discrimination in violation of the District of Columbia Human Rights Act (DCHRA). Futrell v. Dep't of Labor Fed. Credit Union, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under the burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), after employer articulates legitimate, nondiscriminatory reason for the challenged employment action, the employee must show both that the legitimate nondiscriminatory reason was false, and that discrimination was the real reason. Futrell v. Dep't of Labor Fed. Credit Union, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Employment discrimination plaintiff bears initial burden of producing evidence to sustain prima facie case, and if she meets this burden, employer must produce evidence of legitimate, nondiscriminatory reason for adverse action, and if employer does so, burden shifts back to plaintiff to present evidence that employer's proffered reason is pretextual; ultimate burden

of persuasion rests with plaintiff to show impermissible motive or intent. *Blount v. Nat'l Ctr. for Tobacco-Free Kids*, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

Employer's burden to offer legitimate, non-discriminatory reason for discharging employee, once employee has established prima facie case of discrimination, is a burden of production, not of persuasion. *Blount v. Nat'l Ctr. for Tobacco-Free Kids*, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

In considering claims under District of Columbia Human Rights Act (DCHRA), court employs same three-part, burden-shifting test articulated for Title VII cases in *McDonnell Douglas*: (1) burden is initially on employee to make prima facie showing of discrimination by preponderance of evidence; (2) once presumption is raised, burden shifts to employer to rebut it by articulating legitimate, nondiscriminatory reason for adverse action; and (3) burden shifts back to employee to prove that employer's stated reason is pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer articulates legitimate, non-discriminatory reason for adverse employment action, burden shifts back to employee to prove, by preponderance of the evidence, that employer's stated justification for its action is not its true reason, but is in fact merely pretext to disguise discriminatory practice, and this burden merges with ultimate burden of persuasion on the question of intentional discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

In employment discrimination cases, it is not enough for employee simply to show that employer's proffered reason for adverse employment action was pretextual, although that will often considerably assist him in doing so; employee must also prove, by preponderance of the evidence, that employer has unlawfully discriminated. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Since employer presented legitimate, nondiscriminatory reason for terminating employee, burden shifted to employee to establish that employer's proffered reason was pretext for discrimination, either directly by proving that discriminatory reason more likely motivated employer or indirectly by showing that employer's proffered explanation was unworthy of credence, and this burden merged with employee's ultimate burden of persuasion on the question of intentional discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer articulated legitimate, non-discriminatory reason for terminating employee, employee needed to present evidence showing not only that employer's proffered reason was pretext for terminating him, but also

that it was pretext for terminating him because of his race, i.e., that race was the real motivating factor. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

When employment discrimination plaintiff proves a case of discrimination by direct evidence, application of *McDonnell Douglas* is inappropriate; rather, cases involving direct evidence of discrimination are analyzed under the mixed motives analysis articulated in *Price Waterhouse*. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Price Waterhouse's mixed motives analysis requires employee to show that discrimination was motivating factor for employment practice, even though other factors also motivated the practice; in other words, employee must present evidence of conduct or statements by persons involved in decisionmaking process that may be viewed as directly reflecting alleged discriminatory attitude sufficient to permit factfinder to infer that that attitude was more likely than not motivating factor in employer's termination decision. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer articulates legitimate, non-discriminatory reason for adverse employment action, burden shifts to employee to prove, by a preponderance of evidence, that employer's stated justification for its action was not its true reason, but, rather, was a pretext to disguise discriminatory practice. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

If prima facie case of employment discrimination is made, burden shifts to employer to articulate a legitimate basis for employee's termination. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

If employer articulates a legitimate, nondiscriminatory basis for employee's termination, burden shifts back to employee claiming discrimination to demonstrate that employer's action was pretextual. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

Although burden of production may shift from employee to employer and back to employee in employment discrimination action, employee retains ultimate burden of persuading finder-of-fact that employer acted with discriminatory animus. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

In employment discrimination action in which disparate treatment is alleged, plaintiff has ultimate burden of persuasion on issue that defendant intentionally discriminated against plaintiff, and proof proceeds by alternate shiftings of intermediate evidentiary burdens. *Shaw Project Area Committee, Inc. v. District of*

Columbia Com. on Human Rights, 500 A.2d 251, 1985 D.C. App. LEXIS 556 (1985).

Employee in disparate treatment action brought against employer under the Human Rights Act always retains the ultimate burden of persuading the court or agency that she has been a victim of intentional discrimination. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Defendant employer's burden at the second stage of the proof of a disparate treatment case is only to produce admissible evidence which would allow the trier of fact rationally to conclude that the employment decision had not been motivated by discriminatory animus. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

In an action alleging sexual harassment, defendant's burden is a burden of production, that is, the defendant must produce admissible evidence which would allow trier of fact rationally to conclude that the defense has been established and the plaintiff's prima facie case rebutted; ultimate burden of proof remains with the plaintiff. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

The employee alleging disparate treatment in a discriminatory employment case carries the initial burden of proving by the preponderance of the evidence a prima facie case of discrimination and, once that burden is met, a presumption is created that the employer unlawfully discriminated against the employee, whereupon the burden shifts to the employer to articulate some legitimate, nondiscriminatory reason for the action. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

If an employer charged with disparate treatment in a discriminatory employment case produces admissible evidence which would allow the trier of fact rationally to conclude that the employment decision was not motivated by discriminatory animus, the employee must then be given an opportunity to prove that the stated reason for the discharge was a pretext, a burden which merges with the ultimate burden of persuasion placed upon the employee at all times. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

An employer accused of disparate treatment in a discriminatory employment case is not required to prove by a preponderance of the

evidence the existence of a nondiscriminatory reason for the action, but need only produce admissible evidence which would allow the trier of fact rationally to conclude that the employment decision was not motivated by discriminatory animus. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

Once female employee reported sexual harassment by co-worker to her immediate supervisor, employee's reporting obligation was complete, under the District of Columbia Human Rights Act (DCHRA), even if it was not complete under employer's formal sexual harassment policy. *Ruffner-Bugg v. Giant Food, Inc.*, 132 WLR 965 (Super. Ct. 2004).

— Prima facie showing, burden of proof.

To establish a prima facie case of hostile work environment, plaintiff must show that: (1) he is a member of a protected class; (2) he was subjected to unwelcome harassment; (3) the harassment occurred because of the plaintiff's protected status; (4) the harassment affected a term, condition, or privilege of employment; and (5) the employer knew or should have known about the harassment, but nonetheless failed to take steps to prevent it. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Where employer asserts legitimate, nondiscriminatory reason for adverse employment decision, court need not, and should not, assess employee's prima facie case, but should proceed directly to third step of McDonnell Douglas framework and determine whether employee produced sufficient evidence for a reasonable jury to find that employer's asserted nondiscriminatory reason was not the actual reason and that employer intentionally discriminated against employee on basis of prohibited characteristic. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

In race discrimination and retaliation suits under Title VII and District of Columbia Human Rights Act (DCHRA), employee may prove his or her claim with either direct evidence or by indirectly proving prima facie case under familiar McDonnell Douglas burden-shifting framework. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by

611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

Restaurant employee of Lebanese national origin with pro-Zionist beliefs failed to establish prima facie case of discriminatory termination under Title VII or District of Columbia Human Rights Act (DCHRA), absent evidence he was treated differently from similarly situated employees who were not part of his, or any other, protected class; terminated employee testified that he knew of no other employee who had left work without permission and started fight with coworker and not been terminated. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

In order to establish prima facie case of discriminatory termination under Title VII or District of Columbia Human Rights Act (DCHRA), employee must demonstrate the existence of the following four elements: (1) his membership in a protected class (2) his performance at or near employer's legitimate expectations, (3) his discharge, and (4) his replacement by person of equal or lesser ability who is not member of protected class, or alternatively, position remains open after his termination. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

Because District of Columbia Human Rights Act (DCHRA) was modeled on Title VII, courts employ Title VII prima facie case analysis established in *McDonnell Douglas* when analyzing motions for summary judgment in cases brought under DCHRA. *Gaujacq v. Electricite De Fr. Int'l N. Am., Inc.*, 572 F.Supp.2d 79, 2008 U.S. Dist. LEXIS 63933 (2008), affirmed by 601 F.3d 565, 390 U.S. App. D.C. 144, 2010 U.S. App. LEXIS 7308, 93 Empl. Prac. Dec. (CCH) P43864, 108 Fair Empl. Prac. Cas. (BNA) 1601 (2010).

Job applicant seeking to establish prima facie case of race discrimination under *McDonnell Douglas* framework must show that (1) she belongs to racial minority, (2) she applied and was qualified for job for which employer was seeking applicants, (3) despite her qualifications, she was rejected, and (4) after her rejection, position remained open and employer continued to seek applicants from persons of complainant's qualifications; test is not rigid and must be flexible and adjusted to facts of particular case. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

While plaintiff ultimately has the burden of proving a prima facie case in an employment discrimination case, plaintiff is not required to set forth the elements of a prima facie case at the initial pleading stage. *Johnson-Tanner v. First Cash Fin. Servs.*, 239 F.Supp.2d 34, 2003 U.S. Dist. LEXIS 335 (2003).

Plaintiff has burden of proving prima-facie case of gender discrimination under District of Columbia Human Rights Act (DCHRA) by preponderance of the evidence. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Under *McDonnell Douglas* framework, plaintiff alleging discriminatory discharge based on race or gender generally must show as initial matter (1) membership in protected class, (2) performance at or near employer's legitimate expectations, (3) termination, and (4) replacement by person of equal or lesser ability who is not member of protected class or, alternatively, that position remained open after termination. *Stith v. Chadbourne & Parke, LLP*, 160 F.Supp.2d 1, 2001 U.S. Dist. LEXIS 12857 (2001).

Terminated employee is not required to show he was replaced by person outside his or her class to establish fourth element of prima facie case of race or gender discrimination; fact that replacement is not in same protected class as discharged employee may help raise inference of discrimination, but it is not sufficient to establish discrimination, nor does fact that plaintiff is replaced by someone within his protected class negate possibility that discharge was motivated by discriminatory reasons. *Stith v. Chadbourne & Parke, LLP*, 160 F.Supp.2d 1, 2001 U.S. Dist. LEXIS 12857 (2001).

Employee has initial burden to prove, by preponderance of evidence, prima facie case of discrimination, and elements of prima facie case vary slightly depending upon specific type of discriminatory action alleged. *Carney v. American Univ.*, 960 F. Supp. 436, 1997 U.S. Dist. LEXIS 5284 (1997), affirmed in part and reversed in part by, remanded by 151 F.3d 1090, 331 U.S. App. D.C. 416, 1998 U.S. App. LEXIS 18373, 73 Empl. Prac. Dec. (CCH) P45469, 77 Fair Empl. Prac. Cas. (BNA) 1115, 49 Fed. R. Evid. Serv. (CBC) 1477 (1998).

In a sex discrimination case brought under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., plaintiff must carry initial burden of establishing prima facie case of discrimination by showing that plaintiff belongs to protected group, was qualified for position, was terminated, and that others not in protected class were treated differently. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Following the McDonnell-Douglas framework, the first step to proving discrimination under the District of Columbia Human Rights Act (DCHRA) requires the plaintiff to establish a prima facie case of discrimination. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Broadly speaking, to state a prima facie claim of disparate-treatment employment discrimination under the District of Columbia Human Rights Act (DCHRA), the plaintiff must establish that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; and (3) the unfavorable action gives rise to an inference of discrimination. *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

Employee did not show a sufficiently close temporal proximity between his protected activity of bringing a race-discrimination action against the District of Columbia Water and Sewer Authority (WASA) and WASA's alleged adverse employment action of placing him on paid administrative leave, and thus employee did not make out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), where WASA did not place employee on paid administrative leave until years after he initiated his action. *Taylor v. D.C. Water & Sewer Auth.*, 957 A.2d 45, 2008 D.C. App. LEXIS 407 (2008).

Once an employee who brings a discrimination action under the District of Columbia Human Rights Act (DCHRA) makes a prima facie case and the employer presents a non-discriminatory reason, the McDonnell Douglas framework, with its presumptions and burdens, disappears, and the sole remaining issue is discrimination vel non. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Presentation of a prima facie case under the McDonnell Douglas test in a District of Columbia Human Rights Act (DCHRA) action raises a presumption of discrimination, which shifts the burden of production to the employer to justify its action as the product of an independent non-discriminatory reason. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Under the McDonnell Douglas test in a District of Columbia Human Rights Act (DCHRA) action, an employee may rebut the employer's non-discriminatory reason as pretextual and endeavor to meet his ultimate burden of showing impermissible discrimination. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Once the complainant makes a prima facie case of discrimination, under the McDonnell

Douglas test in a District of Columbia Human Rights Act (DCHRA) action, the burden then must shift to the employer to articulate some legitimate, nondiscriminatory reason for the employee's rejection. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

A complainant's burden of establishing a prima facie case of discrimination, under the McDonnell Douglas test in a District of Columbia Human Rights Act (DCHRA) action, is not onerous. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

If an employee in a discrimination action under the District of Columbia Human Rights Act (DCHRA) offers direct rather than circumstantial evidence of discrimination, then the Price Waterhouse mixed motives test is applied, rather than the McDonnell Douglas test. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

To make a prima facie case of discrimination in an action under the District of Columbia Human Rights Act (DCHRA) when there is direct evidence of discrimination, a plaintiff need only provide evidence that a decision-maker possesses a prejudice or bias, and then prove to the factfinder that attitude was more likely than not a motivating factor in the employer's decision to terminate. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Substantial evidence, required to establish a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), means more than a mere scintilla. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

If, after a prima facie case is established, the employer offers a legitimate reason for the employment action challenged by an employee under the District of Columbia Human Rights Act (DCHRA), the presumption of illegality drops out of the case, and the employee has the burden of proving by a preponderance of the evidence that the stated reason is pretextual and that the adverse personnel action was indeed retaliatory. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

In making a discrimination claim under the Human Rights Act, the complaining employee must make a prima facie showing of unlawful discrimination by a preponderance of the evidence; the prima facie showing, when made, raises a rebuttable presumption that the employer's conduct amounted to unlawful discrimination. *D.C. Hous. Auth. v. D.C. Office of Human Rights*, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

Under District of Columbia Human Rights Act (DCHRA), employee must establish four elements to make out a prima facie case of

wrongful termination on the basis of a perceived disability: (1) that she was regarded as having a "disability" as defined in the DCHRA; (2) that she was discharged; (3) that at the time of her discharge, she was performing her job at a level that met her employer's legitimate expectations; and (4) that the discharge occurred under circumstances that raise a reasonable inference of unlawful discrimination. *Teru Chang v. Inst. for Public-Private P'ships, Inc.*, 846 A.2d 318, 2004 D.C. App. LEXIS 161 (2004).

In order to set forth a prima facie case of discriminatory hiring, a plaintiff has to satisfy a four-part test by showing: (1) that she belonged to a protected class; (2) that she was qualified for the position she applied for; (3) that her failure to be hired occurred despite her employment qualifications; and (4) that the decision not to hire her was based on the characteristic that placed her in the protected class. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

To establish a prima facie case of discriminatory termination, employee had to demonstrate that substantial factor in his termination was his membership in the protected class, and to make that demonstration in the absence of direct evidence of discriminatory animus, employee needed to show that he was replaced by a person outside of his protected class or, if the position had remained vacant, that employer had continued to solicit applications for the position or that other similarly situated employees, particularly those employees not of terminated employee's protected class, were not terminated, but were instead treated more favorably. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

To establish prima facie case of discriminatory discharge, employee must demonstrate that she belongs to protected class, that she was qualified for job from which she was terminated, that her termination occurred despite her employment qualifications, and that her termination was based on characteristic that placed her in protected class. *Blount v. Nat'l Ctr. for Tobacco-Free Kids*, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

Burden is initially on employee to make prima facie showing of employment discrimination by preponderance of the evidence, and prima facie showing, when made, raises rebuttable presumption that employer's conduct amounted to unlawful discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Employee's burden in disparate treatment action brought under the Human Rights Act to prove by preponderance of the evidence a prima facie case of discrimination by employer is not onerous. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia*

Com. on Human Rights, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Plaintiff's initial burden of proof in a case of sexual harassment involves introduction of sufficient evidence from which trier of fact could, viewing the evidence in light most favorable to the plaintiff, find the necessary elements of the plaintiff's case. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

To prove a prima facie case under this section a plaintiff must show 1) that she was excluded from participation in, or denied the benefits of, or subjected to discrimination in an educational program or activity; 2) that the program or activity receives federal financial assistance; and 3) that the exclusion was on the basis of sex, i.e. gender. *Tyler v. Howard Univ.*, 124 WLR 49 (Super. Ct. 1995).

Burden shifting, burden of proof.

Burden-shifting framework established in *McDonnell Douglas Corp. v. Green* applies to cases brought pursuant to Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA). *Faison v. District Columbia*, 664 F.Supp.2d 59, 2009 U.S. Dist. LEXIS 96037 (2009).

Under District of Columbia Human Rights Act (DCHRA), where employment discrimination plaintiff has proffered no direct evidence of intentional racial discrimination by alleged decisionmakers, plaintiff's claims are evaluated under the McDonnell Douglas burden-shifting framework. *Harris v. Wackenhut Servs.*, 648 F.Supp.2d 53, 2009 U.S. Dist. LEXIS 77452 (2009), affirmed by 419 Fed. Appx. 1, 2011 U.S. App. LEXIS 9238 (D.C. Cir. 2011).

Under McDonnell Douglas burden-shifting scheme, (1) the plaintiff asserting age discrimination claims under ADEA or District of Columbia Human Rights Act (DCHRA) has the burden of proving by a preponderance of the evidence a prima facie case of discrimination; (2) the burden shifts to the defendant to articulate some legitimate, non-discriminatory reason for its actions; and (3) the plaintiff must then prove by a preponderance of the evidence that the employer's stated reasons were in reality a pretext for discrimination. *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 4, 2008 U.S. Dist. LEXIS 72982 (2008).

At the summary judgment phase courts apply the McDonnell Douglas burden-shifting framework in evaluating age discrimination claims brought under the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA). *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 4, 2008 U.S. Dist. LEXIS 72982 (2008).

Where claims of intentional discrimination and retaliation rely on circumstantial evidence, rather than direct evidence linking the personnel action to a forbidden motive, court evaluates them utilizing the McDonnell Douglas tripartite burden-shifting framework. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

Causal connection.

There was no causal link between alleged derogatory comments made by employer's male vice president of human resources to black female employee, including comments that she was "simply too feminine for her job" and that executives were concerned that she was too "sweet and syrupy," and employee's termination two months later, as would constitute direct evidence supporting employee's race and gender discrimination claims under District of Columbia Human Rights Act (DCHRA); vice president was not involved in termination decision, and in between time vice president made comments and employee's termination, employer engaged in several steps to try to resolve tension between employee and her subordinate. *Wicks v. Am. Transmission Co. LLC*, 701 F.Supp.2d 38, 2010 U.S. Dist. LEXIS 31603 (2010), affirmed by 2010 U.S. App. LEXIS 20561 (D.C. Cir. Oct. 1, 2010).

For purposes of a making out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), an employee may establish a causal connection between an adverse employment action and a protected activity by showing that the employer had knowledge of the employee's protected activity and that the adverse personnel action took place shortly after that activity. *Taylor v. D.C. Water & Sewer Auth.*, 957 A.2d 45, 2008 D.C. App. LEXIS 407 (2008).

The nine-day gap between employee's protected activity and his job termination was sufficient to establish the causal connection required for a prima facie case of retaliation. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

Construction and application.

The District of Columbia Human Rights Act (DCHRA) covers a claim where a plaintiff applied for a job that was located within the District of Columbia even though the decision to discriminate was made outside the District; the fact that the job was to be performed in the District of Columbia is a sufficient connection to assert that discrimination occurred in the District of Columbia. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Sorority was not liable to sorority members under District of Columbia Human Rights Act (DCHRA) for suspending members for violating

sorority's anti-hazing policy, absent showing that members' relationship with sorority was that of an employee and employer within meaning of DCHRA. *Jolevare v. Alpha Kappa Alpha Sorority, Inc.*, 521 F.Supp.2d 1, 2007 U.S. Dist. LEXIS 82964 (2007).

While District of Columbia Human Rights Act (DCHRA) is broad remedial statute which is to be generously construed and a powerful, flexible, and far-reaching prohibition against discrimination of many kinds, its reasonable accommodation provision with respect to religious discrimination is more limited than its Title VII counterpart. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

Former client's claim that decision by District of Columbia Office of Bar Counsel not to initiate disciplinary proceedings against attorney was motivated by racial discrimination was not cognizable under District of Columbia Human Rights Act. *Nwachukwu v. Rooney*, 362 F.Supp.2d 183, 2005 U.S. Dist. LEXIS 3293 (2005).

The private right of action for discrimination claims, established by the District of Columbia Human Rights Act (DCHRA), is not available to District of Columbia employees suing the District. *Jones v. District of Columbia*, 346 F.Supp.2d 25, 2004 U.S. Dist. LEXIS 23304 (2004), affirmed in part and reversed in part by, remanded by 429 F.3d 276, 368 U.S. App. D.C. 279, 2005 U.S. App. LEXIS 24523, 87 Empl. Prac. Dec. (CCH) P42144, 96 Fair Empl. Prac. Cas. (BNA) 1441 (2005).

District of Columbia Human Rights Act (DCHRA) proscribes discriminatory intimidation, ridicule and insult of such severity or pervasiveness as to alter the terms and conditions of employment. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Employment discrimination plaintiff's "admission" that District of Columbia Human Rights Act did not apply to his application and that decision to discriminate for job in District was made outside District did not affect court's resolution of legal question of whether facts alleged gave rise to valid claim under District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 et seq., 1-2512. *Green v. Kinney Shoe Corp.*, 704 F. Supp. 259, 1988 U.S. Dist. LEXIS 15989 (1988).

District of Columbia Human Rights Act was intended to cover all discrimination concerning jobs located in the District, even if job application and decision to discriminate were made elsewhere. D.C. Code 1981, §§ 1-2501 et seq., 1-2512. *Green v. Kinney Shoe Corp.*, 704 F. Supp. 259, 1988 U.S. Dist. LEXIS 15989 (1988).

Applicant for job in District of Columbia could maintain discrimination claim under District of Columbia Human Rights Act even though he applied for the jobs in Maryland and decisions not to hire him were made in Maryland. D.C. Code 1981, §§ 1-2501 et seq., 1-2512. *Green v. Kinney Shoe Corp.*, 704 F. Supp. 259, 1988 U.S. Dist. LEXIS 15989 (1988).

Since the private right of action established by the District of Columbia Human Rights Act is available only to nongovernment employees, the plaintiff, as a District employee, could not maintain an action for damages under the Human Rights Act. D.C. Code 1981, §§ 1-2512, 1-2556. *Dougherty v. Barry*, 604 F. Supp. 1424, 1985 U.S. Dist. LEXIS 21987 (1985).

Neither a court nor a jury sits as a "super-personnel department" that re-examines an employer's business decisions, in an employment discrimination action under the District of Columbia Human Rights Act (DCHRA). *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Human Rights Act contains no explicit requirement that employer accommodate employee's working schedule so that employee can discharge his family responsibilities. *Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP*, 799 A.2d 381, 2002 D.C. App. LEXIS 296 (2002).

If discriminatory employment practices occurred in District of Columbia, Human Rights Act applied, and subject matter jurisdiction existed in District, regardless of whether employee's actual place of employment was in Maryland, the District, or both. D.C. Code 1981, §§ 1-2501, 1-2512. *Matthews v. Automated Business Systems & Services, Inc.*, 558 A.2d 1175, 1989 D.C. App. LEXIS 100 (1989).

Employment discrimination administrative remedies provided by statute and administrative order are exclusive remedies available to District of Columbia government employee claiming discrimination in employment, and private right of action under statute authorizing filing of civil action for unlawful discriminatory practice is available only to nongovernment employees. D.C. Code 1981, §§ 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Construction with federal law.

District of Columbia courts generally accept the federal constructions of Title VII when interpreting District of Columbia Human Rights Act. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512 et seq. *Carpenter v. Fannie Mae*, 165 F.3d 69, 1999 U.S. App. LEXIS 784 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 823, 120 S. Ct. 69, 145 L. Ed. 2d 59, 1999 U.S. LEXIS 5079, 68 U.S.L.W. 3223 (1999).

When federal statute of limitations does not exist for federal law, federal courts usually look to state law for an analogous statute of limitations; on the other hand, importation of state law in some instances would interfere with federal policy and it would be inappropriate to conclude that Congress would choose to adopt state rules at odds with purpose or operation of federal substantive law, and in those cases, federal courts look for a statute of limitations in federal law. *Crocker v. Piedmont Aviation*, 49 F.3d 735, 1995 U.S. App. LEXIS 4236 (C.A.D.C. 1995), writ of certiorari denied by 516 U.S. 865, 116 S. Ct. 180, 133 L. Ed. 2d 118, 1995 U.S. LEXIS 6125, 64 U.S.L.W. 3244, 152 L.R.R.M. (BNA) 2512 (1995).

Statistical evidence of ages and genders of those retained and let go during reduction in force (RIF) was not evidence of pretext for age and gender discrimination in termination of female managing consultant during merger of two groups, as would violate the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), where 12 of 18 employees who remained were over 40, all those retained in consultant's position were close to her age and over 40, and two of five let go were male. *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Inclusion in reduction in force (RIF) of employee who had experience with consulting group's new focus was not evidence of pretext for age and gender discrimination in terminating female managing consultant for lack of such experience during merger of two groups, as would violate the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), where employee and consultant had different supervisors, employee's only client project was coming to a close, and employee had repeatedly announced his intention to resign. *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Retention of several younger male employees by consulting group was not evidence of pretext for age and gender discrimination in terminating female managing consultant as part of a reduction in force (RIF) during merger of two groups, as would violate the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), where three of the employees had experience with group's new focus, which consultant did not, and one took a pay cut and transferred departments. *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Supervisor's highly rating female managing consultant's skills was not evidence of pretext for age and gender discrimination in terminating consultant as part of a reduction in force

(RIF) during merger of two groups, as would violate the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), where rating also included notation that skills applied to a different focus than what group was doing following merger. *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Former supervisor's statements that female managing consultant fit as part of group and that he did not want her to move were not evidence of pretext for age and gender discrimination in terminating consultant as part of a reduction in force (RIF) during merger of two groups, as would violate the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), where statements were two years prior to termination, different supervisor made decision to terminate, and that supervisor made no such statements. *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Employment discrimination claims under the D.C. Human Rights Act are analyzed using the same legal framework as federal employment discrimination claims under Title VII. *Jackson v. District of Columbia*, 783 F.Supp.2d 9, 2009 U.S. Dist. LEXIS 102838 (2009).

Employment discrimination claims under the District of Columbia Human Rights Act are analyzed using the same legal framework as federal Title VII employment discrimination claims. *Badibanga v. Howard Univ. Hosp.*, 679 F.Supp.2d 99, 2010 U.S. Dist. LEXIS 4305 (2010).

Legal standard for establishing a discrimination claim under District of Columbia Human Rights Act is substantially similar to the standard under Title VII. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Employment discrimination and retaliation claims under the D.C. Human Rights Act are analyzed using the same legal framework as federal employment discrimination and retaliation claims. *DuBerry v. District of Columbia*, 582 F.Supp.2d 27, 2008 U.S. Dist. LEXIS 86151 (2008).

District of Columbia Human Rights Act (DCHRA) race discrimination and retaliation claims are subject to the same analysis as Title VII claims. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA)

1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

District of Columbia Human Rights Act (DCHRA) claims are subject to the same analysis as ADA claims. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

District of Columbia Human Rights Act (DCHRA), like Title VII, prohibits certain discriminatory practices by an employer, and legal standard for establishing discrimination under DCHRA is substantively the same as under Title VII. *Elhousseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

The elements for proving discrimination under the District of Columbia Human Rights Act (DCHRA) are directly analogous to those required under Title VII, and District of Columbia courts borrow from federal Title VII case law in interpreting the DCHRA. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

In analyzing a claim of employment discrimination under the District of Columbia Human Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Ervin v. Howard Univ.*, 562 F.Supp.2d 58, 2008 U.S. Dist. LEXIS 47811 (2008).

In analyzing claim of employment discrimination under District of Columbia Human Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

District of Columbia Human Rights Act (DCHRA) and federal discrimination claims are analyzed under the same legal standard. *Ginger v. District of Columbia*, 477 F.Supp.2d 41, 2007 U.S. Dist. LEXIS 14897 (2007), affirmed by 527 F.3d 1340, 381 U.S. App. D.C. 252, 2008 U.S. App. LEXIS 12335, 91 Empl. Prac. Dec. (CCH) P43220, 103 Fair Empl. Prac. Cas. (BNA) 801 (2008).

Employee's religious belief that conflicts with employment requirement but that does not require employee to miss work time for purposes of religious observance, such as unwillingness to take Purified Protein Derivative (PPD) skin test, would not be covered by limited scope of District of Columbia Human Rights Act (DCHRA) reasonable accommodations provision, whereas it would likely be considered a reasonable accommodation case under more expansive reach of Title VII. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873

(2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

Courts look to Title VII jurisprudence when analyzing employment discrimination claims under the District of Columbia Human Rights Act (DCHRA). *Fowler v. District of Columbia*, 404 F.Supp.2d 206, 2005 U.S. Dist. LEXIS 35248 (2005), affirmed by 210 Fed. Appx. 4, 2006 U.S. App. LEXIS 31164 (D.C. Cir. 2006).

For alleged violations of District of Columbia Human Rights Act (DCHRA), District has adopted the Supreme Court's McDonnell Douglas burden-shifting approach; similarly, alleged violations of §§ 1981 are addressed under McDonnell Douglas framework. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

In analyzing a claim of employment discrimination under the District of Columbia Human Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

McDonnell Douglas framework applies to ADEA claims and to claims under District of Columbia Human Rights Act (DCHRA). *Mianegaz v. Hyatt Corp.*, 319 F.Supp.2d 13, 2004 U.S. Dist. LEXIS 9380 (2004).

Claims brought under both §§ 1981 and District of Columbia Human Rights Act are analyzed in same manner as claims arising under Title VII. *Stith v. Chadbourne & Parke, LLP*, 160 F.Supp.2d 1, 2001 U.S. Dist. LEXIS 12857 (2001).

Same legal standards govern both § 1981 claims and District of Columbia Human Rights Act (DCHRA) claims. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Carney v. American Univ.*, 960 F. Supp. 436, 1997 U.S. Dist. LEXIS 5284 (1997), affirmed in part and reversed in part by, remanded by 151 F.3d 1090, 331 U.S. App. D.C. 416, 1998 U.S. App. LEXIS 18373, 73 Empl. Prac. Dec. (CCH) P45469, 77 Fair Empl. Prac. Cas. (BNA) 1115, 49 Fed. R. Evid. Serv. (CBC) 1477 (1998).

In applying District of Columbia Human Rights Act, courts generally apply the burden of proof for a claim of disparate treatment under federal law. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

Elements of denial of promotion claim are the same under § 1981 and under District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2511, 1-2512. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Burden shifting method of proof for Title VII employment discrimination cases applies to alleged violations of District of Columbia Human Rights Act. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Former employee's claims of disability discrimination in violation of District of Columbia Human Rights Act would be analyzed under legal standards of disability discrimination of ADA. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Legal analysis of a District of Columbia Human Rights Act (DCHRA) claim follows the pattern established in McDonnell-Douglas, the Supreme Court's landmark Title VII case. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

District of Columbia courts look to federal employment-discrimination and civil-rights statutes and case law for guidance in deciding District of Columbia Human Rights Act (DCHRA) claims. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Under the three-part, burden-shifting test articulated by the United States Supreme Court for Title VII cases in McDonnell Douglas Corp. v. Green, which test is employed by District of Columbia courts when considering claims of employment discrimination under the District of Columbia Human Rights Act (DCHRA), the ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff. *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

In considering claims of employment discrimination under the District of Columbia Human Rights Act (DCHRA), District of Columbia courts employ the same three-part, burden-shifting test articulated by the United States Supreme Court for Title VII cases in McDonnell Douglas Corp. *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

In considering claims of employment discrimination under District of Columbia Human Rights Act (DCHRA), courts employ same three-part, burden-shifting test articulated by United States Supreme Court for Title VII cases in *McDonnell Douglas Corp. v. McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In considering claims brought under the District of Columbia Human Rights Act (DCHRA), court relies on the same three-part, burden-shifting test used in Title VII cases. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Court of Appeals looks to federal statutes and caselaw for guidance in deciding cases under District of Columbia Human Rights Act. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

Standing under District of Columbia Human Rights Act (DCHRA) is coextensive with standing under Article III of Constitution. U.S.C. Const. Art. 3, § 1 et seq.; D.C. Code 1981, § 1-2556(a). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

In determining whether employer liability for co-worker harassment lies under the District of Columbia Human Rights Act (DCHRA), it is appropriate to adopt the full range common law agency principles that the federal courts employ in interpreting Title VII. *Ruffner-Bugg v. Giant Foods, Inc.*, 132 WLR 965 (Super. Ct. 2004).

Constructive discharge.

Broad language of the arbitration clause, referring to "[a]ny dispute or claim arising out of or relating to Employee's employment or any provision of this Agreement, whether based on contract or tort or otherwise," covered constructive discharge claim based on District of Columbia Human Rights Act (DCHRA). *Booker v. Robert Half Int'l, Inc.*, 315 F.Supp.2d 94, 2004 U.S. Dist. LEXIS 7242 (2004), affirmed by 413 F.3d 77, 367 U.S. App. D.C. 77, 2005 U.S. App. LEXIS 13124, 86 Empl. Prac. Dec. (CCH) P42000, 95 Fair Empl. Prac. Cas. (BNA) 1841, 151 Lab. Cas. (CCH) P60027 (2005).

While discriminatory failure to promote, without more, is insufficient to establish constructive discharge, it may be basis for finding of constructive discharge, for purposes of establishing discrimination claim, if employee can show that she reasonably expected opportunities for advancement and that employer's discriminatory actions or omissions essentially locked her into a position from which she could apparently obtain no relief. D.C. Code 1981, § 1-2512(a). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Continuing violations.

Female employee was not entitled to benefit

of continuing violations theory to preserve her allegations of past unwelcome conduct of sexual nature in violation of the District of Columbia Human Rights Act based on her present allegations of disparate treatment; her allegations of sexual harassment resulting in hostile and abusive work environment were factually distinct from her allegations of disparate treatment. D.C. Code 1981, § 1-2544(a). *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

The continuing violation doctrine did not apply to reasonable accommodation claims asserted under the District of Columbia Human Rights Act (DCHRA) against law firm by computer programmer/analyst who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, and thus any instances in which law firm failed to reasonably accommodate programmer/analyst which fell outside of DCHRA's one-year statute of limitations were not actionable, as each denial by law firm of a request for accommodation was a discrete discriminatory act. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Contracts.

Pursuant to severability provision of employment agreement, unenforceable provision in arbitration clause of agreement excluding punitive damages as remedy in arbitration would be severed, so as to permit enforcement of clause in employment discrimination suit brought under the District of Columbia Human Rights Act (DCHRA), where there was no evidence that employer drafted the agreement, or the arbitration clause specifically, in bad faith or in an attempt to contravene public policy, and the agreement was not permeated with invalid provisions. *Booker v. Robert Half Int'l, Inc.*, 315 F.Supp.2d 94, 2004 U.S. Dist. LEXIS 7242 (2004), affirmed by 413 F.3d 77, 367 U.S. App. D.C. 77, 2005 U.S. App. LEXIS 13124, 86 Empl. Prac. Dec. (CCH) P42000, 95 Fair Empl. Prac. Cas. (BNA) 1841, 151 Lab. Cas. (CCH) P60027 (2005).

Provision in arbitration clause of employment agreement excluding punitive damages as arbitration remedy was unenforceable in employment discrimination suit brought under the District of Columbia Human Rights Act (DCHRA). *Booker v. Robert Half Int'l, Inc.*, 315 F.Supp.2d 94, 2004 U.S. Dist. LEXIS 7242 (2004), affirmed by 413 F.3d 77, 367 U.S. App. D.C. 77, 2005 U.S. App. LEXIS 13124, 86 Empl. Prac. Dec. (CCH) P42000, 95 Fair Empl. Prac. Cas. (BNA) 1841, 151 Lab. Cas. (CCH) P60027 (2005).

Successor to affiliate and/or subsidiary of corporation whose insignia appeared on employment forms, including "Mutual Agreement

to Arbitrate Claims” and “Dispute Resolution Guide,” could compel arbitration of employee’s claims of discrimination and retaliation under District of Columbia Human Rights Act (DCHRA); arbitration agreement provided that any reference therein to parent corporation would also be reference to all subsidiaries and affiliated corporations and any successors and assigns, and while dispute resolution guide was distributed to employee without disclaimer that first three steps leading up to arbitration no longer applied, parties expressly agreed to be bound only by arbitration provision. *Sapiro v. VeriSign*, 310 F.Supp.2d 208, 2004 U.S. Dist. LEXIS 4940 (2004).

Impinging upon full participation in economic life of District of Columbia by terminating contract because corporate president was Jewish was permitted, where there was no violation of equal opportunity to participate in employment, places of public accommodation, resort or amusement, educational institutions, public service, housing, or commercial space accommodations. D.C. Code 1981, § 1-2511. *Gersman v. Group Health Ass’n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Damages.

Jury’s award of \$180,000 to Hispanic metropolitan police department captain in employment discrimination and retaliation action under § 1983, Title VII, and District of Columbia (D.C.) Human Rights Act constituted impermissible double recovery, where captain’s claims under federal and D.C. theories arose from same operative facts and sought identical relief. *Medina v. District of Columbia*, 643 F.3d 323, 2011 U.S. App. LEXIS 13389 (C.A.D.C. 2011).

If employee has not suffered reduction in benefits or pay, then “adverse personnel action” can only be established if it is shown that employer’s action had materially adverse consequences affecting terms, conditions, or privileges of employment. *Tsehaye v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Compensatory damages awarded to university employee, who prevailed on her employment discrimination action against the university and her supervisor, would be allocated to her sexually hostile work environment and retaliation claims under District of Columbia Human Rights Act (DCHRA), so that all of \$300,000 statutory maximum for Title VII damages could be preserved for punitive damages awarded to employee, which would be reduced to meet maximum. *Estes v. George-*

town Univ., 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Title VII damage cap of \$300,000 would not be applied to limit former employee’s recovery under the District of Columbia Human Rights Act. 42 U.S.C. § 1981a(b)(3)(D); D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Under District of Columbia law, award of punitive damages cannot stand alone, unaccompanied by compensatory damages. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Where Title VII damage cap was applied to reduce jury’s verdict in favor of former employee from \$4,893,807.40 to \$300,000, federal district court would not “reallocate” Title VII damages to former employee’s recovery under the D.C. Human Rights Act so as to fully effectuate jury’s intent; former employee provided no legal support for such action, and jury had made separate, specific awards under separate statutes, pursuant to specific instructions of law. 42 U.S.C. § 1981a(b)(3)(D); D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Where former employer and supervisors were found to have engaged in gender-based harassment of and retaliation against former employee in violation of the District of Columbia Human Rights Act, jury’s allocation of responsibility and damages as to employee’s immediate supervisor and that supervisor’s direct supervisor were proper; verdict reflected jury’s conclusion that immediate supervisor’s harassment inflicted substantial pain and suffering, that his supervisor had no responsibility for harassment, and that his supervisor was responsible, to modest degree, for employee’s pain and suffering attributable to the retaliation. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Where former employer and supervisors were found to have engaged in gender-based harassment of and retaliation against former employee in violation of the District of Columbia Human Rights Act, jury’s award of \$500,000 for emotional pain and suffering and \$1 million in punitive damages against employer exceeded maximum limit of reasonable range within which jury could properly operate and, thus, would be reduced to \$100,000 and \$200,000, respectively. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that former employer and supervisors acted in conscious disregard of former employee’s rights, so as to support award of punitive damages under the District of Columbia Human Rights Act, was supported by evi-

dence that defendants failed to take action to investigate or correct immediate supervisor's behavior, failed to follow applicable procedures for processing employee's complaints, recommended immediate supervisor for and promoted him to vice president in the face of employee's complaints, and then allowed him to design reorganization plan that eliminated only employee's job. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

District of Columbia Human Rights Act, which permits court to order appropriate relief, including, but not limited to, compensatory damages, authorizes award of punitive damages for employment discrimination. D.C. Code 1981, §§ 1-2512, 1-2553(a), (a)(1)(D), 1-2556(b). *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Damages in excess of \$400 per defendant under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., is a specialized form of compensatory damages, rather than punitive damages. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

In action brought by former employee against employer alleging sex discrimination and retaliatory discharge in violation of the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., award of \$200,000 in punitive damages had no basis under the Act. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Compensatory damages award of \$800,000 for emotional distress, in employment discrimination and sexual harassment action, was not extraordinarily disproportionate to the injuries and losses claimed, where there was sufficient evidence from which a reasonable jury could have found that employee suffered significant mental and physical distress caused by the hostile work environment caused by sexual harassment by a superior, and the jury was properly instructed on compensatory damages. *Campbell-Crane & Assocs. v. Stamenkovic*, 44 A.3d 924, 2010 D.C. App. LEXIS 788 (2012).

Record fully supported trial judge's view that jury's compensatory damages award of one million dollars to African American employee on her national origin and retaliation claims was excessive, such that jury's damages verdict should be set aside; after employee was terminated, she did not work for 2 years and suffered some emotional distress, employee earned only \$24,000 a year at employer and, by her own testimony, suffered only mild physical symptoms as result of termination, and it was reasonable for trial court to conclude that comments made by employee's counsel during his

closing argument, namely his focus on employer as a "big bank" and his emphasis on how difficult it was to "get through to them," were inextricably linked to the excessive verdict. *Scott v. Crestar Fin. Corp.*, 928 A.2d 680, 2007 D.C. App. LEXIS 463 (2007).

In sexual harassment-hostile work environment action, Commission on Human Rights had no obligation to explain why it lowered employee's mental injury award from the amount proposed by the hearing examiner, namely \$900,000, to \$700,000; hearing examiner made a recommended decision, but the final decision was made by the Commission, and this was not a case where the Commission's reduction in the award implied disagreement with any of the hearing examiner's credibility findings, and instead, Commission exercised its responsibility to guard against awards inflated beyond what the circumstances would justify. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Homosexual employee who suffered no direct physical trauma from supervisor's sexual harassment and whose mental injury, while affecting quality of his life, was conceded by his physician not to have been disabling was entitled to administrative award of \$700,000 for pain and suffering; employee suffered from major depressive disorder which was precipitated by the sexual harassment, employee's condition was permanent, and employee's ongoing need for treatment would diminish his ability to lead normal life well into the future. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Homosexual employee was entitled to damages for embarrassment, humiliation, and indignity in administrative proceeding on his sexual harassment-hostile work environment claim; supervisor's conduct toward employee was degrading and humiliating, supervisor demeaned homosexuals in general and employee in particular, characterizing them as needing inpatient hospital treatment, and employee as soft and fragile because of his homosexuality, and supervisor abused her supervisory authority by subjecting employee to repeated telephone conversations about her sexual behavior, and at least one of the phone calls was overheard by a co-worker. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Commission on Human Rights did not err by considering non-sexual retaliatory evidence in awarding damages for the proven sexual harassment-hostile work environment. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Declining to grant employer's motion to remit compensatory damages to a lesser amount was

not an abuse of discretion, in action brought by former employee alleging retaliation for reporting sexual harassment by supervisor. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Jury's award of \$300,000 in compensatory damages, including damages for future lost earnings and emotional distress, to employee who prevailed on her sex discrimination claim under District of Columbia Human Rights Act (DCHRA) was proper; there was ample evidence to support an award of \$171,226 to \$197,864 for lost income, and approximately \$100,000 emotional distress damages award was not beyond all reason. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Although employer's behavior was discriminatory, employer's actions were not malicious, wanton, or willful so as to warrant award of punitive damages to employee who prevailed on her sex discrimination claim under District of Columbia Human Rights Act (DCHRA); employee's evidence failed to establish that supervisory personnel both participated in and otherwise condoned working conditions in which employee was subjected to gender-based comments on a regular basis. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Punitive damages are available in all discrimination cases under District of Columbia Human Rights Act (DCHRA), subject only to general principles governing any award of punitive damages. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

There was sufficient evidence of malice or evil motive to support jury's award of punitive damages to employee on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA); employee had directly told his manager to stop making age-based comments, and manager persisted in his ridicule and condoned or encouraged other employees when they made similar remarks. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Ten thousand dollar compensatory damages award to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA) was not excessive; employee testified that insulting behavior of his supervisor and co-workers made him feel inadequate and inept, and employee's wife said that he suffered both mentally and physically in the weeks before he was fired. D.C. Code 1981, § 1-2501

et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Punitive damages award of \$390,000, which was awarded to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA), was not so grossly excessive as to violate due process, even though punitive damages award was 39 times employee's \$10,000 compensatory damages award. U.S. Const. Amend. 14; D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Paragraph (a)(1) provides a basis for a cause of action for compensatory damages, even in the absence of a person applying for an existing vacancy or for a particular promotion, and even where there is no basis for an award of back pay in the particular circumstances; thus, simply telling a black employee who is working for her employer physically in the District of Columbia that her opportunities for transfer or promotion were precluded by the fact that she was black is a compensable violation of the District of Columbia Human Rights Act. *Holt v. Life Care Servs. Corp.*, 121 WLR 1497 (Super. Ct. 1993).

Defenses.

As under Title VII, in determining whether judgment as matter of law is appropriate in any particular case under District of Columbia Human Rights Act (DCHRA), district court must consider the employer's legitimate non-retaliatory reason for adverse action and, ultimately, whether the plaintiff has offered sufficient evidence for reasonable jury to find that retaliation actually motivated employer's decision. *Francis v. District of Columbia*, 731 F.Supp.2d 56, 2010 U.S. Dist. LEXIS 137113 (2010).

If plaintiff in a District of Columbia Human Rights Act (DCHRA) action successfully shows that a discriminatory or retaliatory motive played a motivating part in an adverse employment action, the employer can nevertheless avoid liability by demonstrating by a preponderance of the evidence that it would still have taken the same action absent discriminatory or retaliatory motive. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Automobile dealership established a legitimate, nondiscriminatory reason for its decision to terminate African-American employee, for purposes of former employee's District of Columbia Human Rights Act (DCHRA) action, where dealership maintained that it termi-

nated employee because he failed to obtain a customer's signature on an important assumption-of-liability form and then forged the customer's signature on such a form, and employee's own version of the facts indicated that that was the same reason dealership's owner gave him upon his termination. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

University waived or abandoned its statute-of-limitations defense to employee's pay discrimination claim under the District of Columbia Human Rights Act (DCHRA), where university's motion for summary judgment, while including a footnote on the statute of limitations, made no textual argument on the subject and cited no applicable case law, university's motion for reconsideration included no contention regarding the statute of limitations, and university did not assert the statute of limitations as an affirmative defense in parties' joint pretrial statement, but instead first made argument on the defense in a trial brief filed one week before trial. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

The ministerial exception to federal anti-discrimination laws within the context of the Free Exercise Clause may be raised as a bar to suits alleging discrimination under the District of Columbia Human Rights Act. *Pardue v. Ctr. City Consortium Schs. of the Archdiocese of Wash., Inc.*, 875 A.2d 669, 2005 D.C. App. LEXIS 270 (2005), writ of certiorari denied by 546 U.S. 1003, 126 S. Ct. 619, 163 L. Ed. 2d 506, 2005 U.S. LEXIS 8243, 74 U.S.L.W. 3288, 96 Fair Empl. Prac. Cas. (BNA) 1440 (2005).

Employer's explanation that black employee was fired on account of her allegedly unsatisfactory performance constituted legitimate, nondiscriminatory reason for employee's termination for purposes of her racial discrimination claim. *Blount v. Nat'l Ctr. for Tobacco-Free Kids*, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

Discrimination.

— Age, discrimination.

Employee failed to present any evidence rebutting partnership's explanation that it did not make employee a partner because there was no business case for doing so, as required to establish his age "had a determinative influence" upon partnership's failure to promote him in violation of the District of Columbia Human Rights Act (DCHRA) or was the "but-for" cause of that decision in violation of the Age Discrimination in Employment Act (ADEA). *Schuler v. PricewaterhouseCoopers, LLP*, 595 F.3d 370,

2010 U.S. App. LEXIS 2998 (C.A.D.C. 2010), dismissed by 813 F. Supp. 2d 45, 2011 U.S. Dist. LEXIS 108645 (D.D.C. 2011).

District of Columbia's asserted justification for older Metropolitan Police Department (MPD) employee's demotion and replacement with employee who was three years younger at higher rank and pay grade upon her departure, police chief's complete reorganization of MPD Command Staff during her first year in office because she believed that command structure had become "too top heavy" and that it "needed to be downsized," was legitimate and nondiscriminatory, and reasonable jury could not find that explanation was pretextual or that age was a determining factor in challenged employment decisions. *Primas v. District of Columbia*, 2012 WL 2920862 (2012).

Transfer of 59 year old District of Columbia employee, who had to care for her daughter and ill father, was not based on age or family responsibility discrimination, as would violate the Age Discrimination in Employment Act (ADEA) or District of Columbia Human Rights Act (DCHRA), where employee's entire division was dissolved as part of a substantial office realignment. *Blocker-Burnette v. District of Columbia*, 842 F.Supp.2d 329, 2012 U.S. Dist. LEXIS 16504 (2012).

Job applicant stated an age discrimination claim under the District of Columbia Human Rights Act (DCHRA) by alleging that employer discriminated against her, on basis of her age, when it decided not to hire her for any position in the District of Columbia. *Peterson v. Archstone*, 601 F.Supp.2d 123, 2009 U.S. Dist. LEXIS 16444 (2009), dismissed by 677 F. Supp. 2d 167, 2010 U.S. Dist. LEXIS 133 (D.D.C. 2010).

Adverse employment action, required to support claim of age discrimination under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), did not occur when employer was allegedly aware that air conditioner in employee's office was leaking a black substance, and unit was not repaired for three months; necessary showing that employment status was affected was not made. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Adverse employment action, required to support claim of age discrimination under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), did not occur when two employees besides supervisor attended her annual employment evaluation; while presence might have been unnerving, it did not affect employment status. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Adverse employment action, required to support claim of age discrimination under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA), did not occur when hospital admissions financial officer was denied permission to receive training; necessary showing that denial affected job performance was not made. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Formal reprimands of employee, which involved only initial stages of employer's termination procedure, did not constitute adverse employment action required for age discrimination suit under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA); there was no change in employment status. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

To prove that allegations in complaint amount to discrimination in violation of Age Discrimination in Employment Act (ADEA), Title VII, and District of Columbia Human Rights Act (DCHRA), employee must satisfy the following three-prong inquiry: (1) that he belongs to a protected class, (2) that he suffered an adverse employment action, and (3) that the unfavorable action gives rise to an inference of discrimination. *Williams v. Wash. Convention Ctr. Auth.*, 407 F.Supp.2d 4, 2005 U.S. Dist. LEXIS 4138 (2005), appeal dismissed by 481 F.3d 856, 375 U.S. App. D.C. 360, 2007 U.S. App. LEXIS 7971, 89 Empl. Prac. Dec. (CCH) P42775, 100 Fair Empl. Prac. Cas. (BNA) 530, 67 Fed. R. Serv. 3d (Callaghan) 1029 (2007).

Employee's unwillingness to work hours required for head chef position rendered her unqualified for such position, and she thus failed to establish prima facie case of age discrimination under District of Columbia Human Rights Act (DCHRA) based on her alleged termination. *Luhrs v. Newday, LLC*, 326 F.Supp.2d 30, 2004 U.S. Dist. LEXIS 12758 (2004).

Employer's proffered nondiscriminatory reason for allegedly terminating head chef, i.e., that she would not change her schedule after employer made business decision to stop serving lunch, was not pretext for age discrimination in violation of District of Columbia Human Rights Act (DCHRA), where her opinion that she would not have been retained even if she had changed schedule was speculative, fact that other managers left did not give rise to inference of discrimination, and employer could replace more expensive employee with someone less expensive. *Luhrs v. Newday, LLC*, 326 F.Supp.2d 30, 2004 U.S. Dist. LEXIS 12758 (2004).

Age and salary are not tokens for each other, and terminating a highly-paid employee to re-

duce costs or increase profits does not in itself support an inference of age discrimination in violation of the District of Columbia Human Rights Act (DCHRA). *Luhrs v. Newday, LLC*, 326 F.Supp.2d 30, 2004 U.S. Dist. LEXIS 12758 (2004).

To make out prima facie case of age discrimination under ADEA, applicant must establish her membership in protected age group, her qualifications for position, and that she was not selected for position; at bottom, applicant must demonstrate facts sufficient to create reasonable inference that age discrimination was determining factor in employment decision. *Teneyck v. Omni Shoreham Hotel*, 254 F.Supp.2d 17, 2003 U.S. Dist. LEXIS 5174 (2003), affirmed by 365 F.3d 1139, 361 U.S. App. D.C. 214, 2004 U.S. App. LEXIS 8952, 85 Empl. Prac. Dec. (CCH) P41736, 93 Fair Empl. Prac. Cas. (BNA) 1354 (2004).

Age discrimination plaintiff did not meet a prima facie case in showing that her position remained open and was filled by younger person, where record showed that plaintiff's position was abolished, and newly-hired younger employee's position had different grade, salary, job description, and level of supervisory authority. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2512(a). *Goss v. George Washington Univ.*, 942 F. Supp. 659, 1996 U.S. Dist. LEXIS 16271 (1996).

To establish prima facie case of age discrimination, plaintiff must show that she is member of statutorily protected age group, she was qualified for position, she was discharged, and position remained open and was subsequently filled by younger person. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2512(a). *Goss v. George Washington Univ.*, 942 F. Supp. 659, 1996 U.S. Dist. LEXIS 16271 (1996).

District of Columbia Human Rights Act's definition of "age" in case of employment as 18 to 65 years of age "unless otherwise prohibited by law" did not mean that upper end of age definition would always comport with standard found in Age Discrimination in Employment Act such that 70-year-old employee who claimed he was forced to retire could maintain claim under District of Columbia Act. Age Discrimination in Employment Act of 1967, § 7, as amended, 29 U.S.C. § 626; D.C. Code 1981, § 1-2502(2). *Passer v. American Chemical Soc.*, 701 F. Supp. 1, 1988 U.S. Dist. LEXIS 14635 (1988).

Demoted employee who failed to present either direct evidence of discrimination or statistical evidence of disparate treatment failed to create reasonable inference that his age was a "determining factor" in his demotion. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Office of Deputy Mayor for Education (ODME) articulated legitimate, nondiscriminatory reason for terminating 62-year-old employee, in action brought under District of Columbia Human Rights Act (DCHRA) for age discrimination against deputy mayor and District of Columbia; ODME underwent reorganization that necessitated reduction in staff, employee was not nearly as qualified for newly designed position as younger coworker, and employee acknowledged that neither deputy mayor or anyone in his staff ever made disparaging age-related or discriminatory comment to her. *Cain v. Reinoso*, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

For claims of age discrimination based on disparate treatment under the District of Columbia Human Rights Act (DCHRA), liability depends on whether age actually motivated the employer's decision; that is, the plaintiff's age must have actually played a role in the employer's decision-making process and had a determinative influence on the outcome. *Wash. Convention Ctr. Auth. v. Johnson*, 953 A.2d 1064, 2008 D.C. App. LEXIS 357 (2008).

Former employee failed to present a *prima facie* case that employer discriminated against her based on age by hiring a younger person for travel services position, which employee applied for after her position was terminated, where she failed to present any evidence that she had the relevant education and experience required in the job posting, even though she had 27 years of experience working for employer. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

— Disability, discrimination.

Employee's receipt of social security disability benefits for listed disability was not inconsistent with her claim that she could perform her job with reasonable accommodation, and thus did not preclude her from bringing claim of disability discrimination under District of Columbia Human Rights Act; Social Security Administration made no further inquiry after finding that disability was listed. D.C. Code 1981, § 1-2501 et seq.; 20 C.F.R. § 404.1520(d). *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Under District of Columbia Human Rights Act, if insurer makes disability determinations without regard to whether insured can work with reasonable accommodation, award of benefits does not preclude later claim that insured can work with accommodation. D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Under District of Columbia law, employee's receipt of private disability benefits was not inconsistent with her claim that she could perform her job with reasonable accommodation,

and thus did not bar her from bringing disability discrimination claim against her employer; residual disability benefits were available while employee continued to work but her income was reduced, and her eligibility for total disability benefits did not take into account her ability to work with accommodations. D.C. Code 1981, § 1-2501 et seq. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Campus security officer who injured his ankle in course of performing his duties failed to state viable claim for failure to accommodate disability under District of Columbia Human Rights Act (DCHRA) based on letter threatening to terminate him unless he returned to work by extended date for end of his FMLA leave; he took that leave due to his "stress, anxiety and depression" and not his physical disability, and university had accommodated his leave request twice. *Leftwich v. Gallaudet University*, 2012 WL 2930725 (2012).

University professor's allegation that she was discriminated against by university for deaf persons, because of nature and extent of her disability of deafness, including ways in which she chose to respond to her deafness that did not conform to what was preferred or accepted by university, was sufficient for disability discrimination claim, under District of Columbia Human Rights Act (DCHRA), even though professor did not allege discrimination solely due to her deafness, but also due to her particular kind of deafness and approach to her disability. *Kimmel v. Gallaudet Univ.*, 639 F.Supp.2d 34, 2009 U.S. Dist. LEXIS 67876 (2009).

Law firm employee who was no longer able to work in her position as legal secretary due to Grave's disease, fibromyalgia, and other serious medical conditions and who was not reassigned to receptionist position following her return from disability leave failed to establish *prima facie* case of disability discrimination; she failed to demonstrate that she could perform the essential functions of receptionist position with or without a reasonable accommodation, or that her requested accommodation in the form of reassignment from her previous legal secretary position to receptionist position was reasonable on its face or on particular facts of case. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

To establish *prima facie* case under the ADA and District of Columbia Human Rights Act (DCHRA) for discrimination based on disability, employee must establish that (1) she has a

disability as defined by the ADA, (2) she was qualified for her position with or without a reasonable accommodation, and (3) she suffered an adverse employment action because of her disability. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

In order to establish her *prima facie* case of disability discrimination under District of Columbia Human Rights Act (DCHRA), plaintiff must demonstrate that: (1) she has "disability" within meaning of DCHRA; (2) she was qualified for position in question; (3) she suffered adverse personnel action; and (4) adverse action occurred under circumstances that give rise to inference of unlawful discrimination. *Price v. Wash. Hosp. Ctr.*, 321 F.Supp.2d 38, 2004 U.S. Dist. LEXIS 9834 (2004).

In order to establish *prima facie* case of handicap discrimination in violation of ADA and District of Columbia Human Rights Act, employee must show that he is otherwise qualified individual with disability. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Former employee failed to establish that, with or without reasonable accommodation, she was able to perform essential functions of her position, necessary element of disability discrimination claim under District of Columbia Human Rights Act, since she applied for and was receiving both monthly Social Security and insurance disability payments effective six months before her termination date. D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Until employee demonstrates that she was capable of performing essential functions of her position, with or without accommodation, employer is under no corresponding duty to make reasonable accommodation, for purposes of disability discrimination claim under ADA and District of Columbia Human Rights Act. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), re-

versed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Reasonable accommodation requested by former employee, alleging disability discrimination in violation of District of Columbia Human Rights Act, was not required under Act; employee requested creation of new part-time position. D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Former employee failed to show that her employment was terminated on ground that employer regarded her as having a disability, for purposes of District of Columbia Human Rights Act (DCHRA), even though she was terminated just days after she told employer that she had been diagnosed with hypertension; it was pure speculation to conclude that employer believed that she was unable to perform a class of jobs. *Teru Chang v. Inst. for Public-Private P'ships, Inc.*, 846 A.2d 318, 2004 D.C. App. LEXIS 161 (2004).

Under District of Columbia Human Rights Act (DCHRA), the mere fact that an employer is aware of an employee's impairment is insufficient to demonstrate either that the employer regarded the employee as disabled or that that perception caused the adverse employment action. *Teru Chang v. Inst. for Public-Private P'ships, Inc.*, 846 A.2d 318, 2004 D.C. App. LEXIS 161 (2004).

To establish *prima facie* case of discrimination based upon handicap under Human Rights Act, employee is required to prove that: except for her physical handicap, she is qualified to fill position; she has handicap that prevents her from meeting physical criteria for employment; and challenged physical standards have disproportionate impact on persons having the same handicap from which she suffers. D.C. Code 1981, § 1-2512(a)(1). *Strass v. Kaiser Found. Health Plan*, 744 A.2d 1000, 2000 D.C. App. LEXIS 6 (2000).

To sustain *prima facie* case of discrimination based upon handicap under Human Rights Act, there should be facial showing or at least plausible reasons to believe that the handicap can be accommodated or that the physical criteria are not job related. D.C. Code 1981, § 1-2512(a)(1). *Strass v. Kaiser Found. Health Plan*, 744 A.2d 1000, 2000 D.C. App. LEXIS 6 (2000).

In determining whether employer failed to make reasonable accommodation under Human Rights Act for employee's disability, namely hypertension, jury could properly consider evidence that there was vacant position

available which employee was qualified to fill and could have concluded that employer could have, but declined to, accommodate employee's condition; the vacant position was less demanding, and employer hired for the position someone who had difficulties in other management positions with employer. D.C. Code 1981, § 1-2512(a)(1). *Strass v. Kaiser Found. Health Plan*, 744 A.2d 1000, 2000 D.C. App. LEXIS 6 (2000).

Discharged university secretary failed to make prima facie showing of violation of Human Rights Act; although secretary suffered from manic-depressive syndrome, there was no showing that deficiencies in her job performance were related to such mental disablement or that reasonable accommodation for her condition was possible. D.C. Code 1981, §§ 1-2502(23), 1-2512(a)(2). *American University v. District of Columbia Comm'n on Human Rights*, 598 A.2d 416, 1991 D.C. App. LEXIS 287 (1991).

Mental illness alone is not "physical handicap," within meaning of Human Rights Act provision prohibiting employer from discharging employee based wholly or partially upon discriminatory reasons; to come within Act's protection, complainant must prove that he or she has mental disablement for which reasonable accommodation can be made. D.C. Code 1981, §§ 1-2502(23), 1-2512(a)(1). *American University v. District of Columbia Comm'n on Human Rights*, 598 A.2d 416, 1991 D.C. App. LEXIS 287 (1991).

Handicapped woman failed to make prima facie case of employment discrimination under Human Rights Act where she presented herself as someone who was either unable or unwilling to work at all. D.C. Code 1981, §§ 1-2502(23), 1-2512(a)(1). *Miller v. American Coalition of Citizens with Disabilities, Inc.*, 485 A.2d 186, 1984 D.C. App. LEXIS 562 (1984).

Showing prima facie case of employment discrimination against the handicapped requires, at minimum, that employee present herself to employer as someone willing and able to work, but for surmountable handicap; this showing must precede any shift of burden to employer to demonstrate that there can be no reasonable accommodation for employee's handicap and thus that failure to employ is nondiscriminatory. D.C. Code 1981, § 1-2512(a)(1). *Miller v. American Coalition of Citizens with Disabilities, Inc.*, 485 A.2d 186, 1984 D.C. App. LEXIS 562 (1984).

Evidence was sufficient to support a finding of employment discrimination based on employee's alcoholism disability. *Besikirski v. Providence Hospital*, 126 WLR 869 (Super. Ct. 1998).

The D.C. Human Rights Act does not protect the able bodied from discrimination based on their lack of handicap. *Ortner v. Paralyzed*

Veterans of Am., 120 WLR 193 (Super. Ct. 1992).

— Gender, discrimination.

Female employee of wholly-owned subsidiary of French energy company functioning as its representative in Washington, D.C. was not victim of discrimination based on her gender; she was replaced in positions of General Delegate and President in the normal course of work as her contract expired and was treated no differently than persons who had preceded her in those positions, was actually favored when parent company assigned her to serve as vice president of subsidiary in effort to accommodate her desire to stay in Washington, was reassigned to high level position in France only after her obstructionist behavior made it clear she would not work cooperatively with her replacement in original positions, and was terminated only after she refused her new assignment in France. *Gaujacq v. EDF, Inc.*, 601 F.3d 565, 2010 U.S. App. LEXIS 7308 (C.A.D.C. 2010).

Employer's failure to promote employee allegedly because she was outspoken advocate for eliminating fraternization in workplace did not constitute sex discrimination in violation of District of Columbia Human Rights Law, inasmuch as espousal of views for or against fraternization was not a surrogate for being male or female. D.C. Code 1981, § 1-2512 et seq. *Carpenter v. Fannie Mae*, 165 F.3d 69, 1999 U.S. App. LEXIS 784 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 823, 120 S. Ct. 69, 145 L. Ed. 2d 59, 1999 U.S. LEXIS 5079, 68 U.S.L.W. 3223 (1999).

Government contractor's employee failed to plausibly allege that she suffered any sex discrimination under District of Columbia Human Rights Act (DCHRA) while employed at facility in District of Columbia; while she complained of repeated harassment by her supervisor there, she alleged the harassment was based on his mistaken belief that she had destroyed a database, not her gender, and although employee recounted conversation with colleague where she stated that "military males are exempt from hostile behavior from management, unlike female college grads with no prior military experience," she failed to connect any adverse action to her gender. *Cole v. Boeing Co.*, 845 F.Supp.2d 277, 2012 U.S. Dist. LEXIS 26384 (2012).

Discharged District of Columbia high school principal did not satisfy statutory notice requirement for her unliquidated damages claims against District under District of Columbia Human Rights Act (DCHRA) by sending letter to individual in District public school's office of human resources stating that she had been "discriminated against due to her age and gender" and that she was comfortable taking claim

of discrimination to trial. *Musgrove v. Gov't of the Dist. of Columbia*, 775 F.Supp.2d 158, 2011 U.S. Dist. LEXIS 37828 (2011), affirmed by 458 Fed. Appx. 1, 2012 U.S. App. LEXIS 1819 (D.C. Cir. 2012).

Reason proffered by District of Columbia Department of Environment (DDOE) for reducing job duties and responsibilities of female environmental engineer of Peruvian origin, that reduction was the natural consequence of need to hire additional staff to bring Storm Water Management Division up to proper staffing level, was not legitimate and nondiscriminatory or nonretaliatory and did not shift burden to her to show that reason was pretext for discrimination based on sex and/or national origin or retaliation under Title VII and District of Columbia Human Rights Act (DCHRA); employee's claim was not that hiring of additional staff and consequent reduction of her duties was itself discriminatory or retaliatory, but that her supervisor discriminated and retaliated against her by stripping her of significant and meaningful responsibilities and giving them to white male, who had been hired at lower grade and was not engineer. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Female doctor and faculty member formerly employed by university medical school failed to allege that she was discriminated against because of her sex, as required to plead retaliation claims against university under Title VII and District of Columbia Human Rights Act (DCHRA). *Soliman v. George Wash. Univ.*, 658 F.Supp.2d 98, 2009 U.S. Dist. LEXIS 90149 (2009), dismissed in part by 730 F. Supp. 2d 17, 2010 U.S. Dist. LEXIS 79947 (D.D.C. 2010).

To establish a claim of gender discrimination under the District of Columbia Human Rights Act (DCHRA), the employee must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; and (3) the unfavorable action gives rise to an inference of discrimination. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Female employee of corporation operating corrections facility failed to establish gender discrimination violative of District of Columbia Human Rights Act (DCHRA), in connection with denial of promotion; she was not qualified for position, as it called for someone with prior supervisory experience she lacked, and male applicants were either accepted or rejected on basis of prior experience. *McCain v. CCA of Tenn., Inc.*, 254 F.Supp.2d 115, 2003 U.S. Dist. LEXIS 4662 (2003).

Federal employee stated adverse employment action element of her Title VII sexual discrimination claim against government by alleging that supervisor did not permit her to fulfill basic responsibilities of her job descrip-

tion, denigrated her achievements at every opportunity, circulated intimidating and false accusatory memoranda about her, and never gave her performance evaluations commensurate with her actual performance, preventing her proper advancement. *Higbee v. Billington*, 246 F.Supp.2d 10, 2003 U.S. Dist. LEXIS 2524 (2003).

To count as an adverse employment action, in context of establishing a prima facie gender discrimination claim under District of Columbia Human Rights Act (DCHRA), the action must have had materially adverse consequences affecting the terms, conditions, or privileges of employment or her future employment opportunities; this means that actions imposing purely subjective harms, such as dissatisfaction or humiliation, are not adverse. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Requirement that employees comply with normal work schedule in lieu of signing up for special work detail was legitimate, nondiscriminatory reason for not allowing female employee to serve on special duty team, on employee's District of Columbia Human Rights Act (DCHRA) claim. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

In analyzing claim of gender discrimination under District of Columbia Human Rights Act (DCHRA), district court applies analytical framework used in Title VII cases. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Once plaintiff can demonstrate that she has met objective employment qualifications, plaintiff has established her prima-facie case of gender discrimination under District of Columbia Human Rights Act (DCHRA). *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

To be considered "similarly situated," for purposes of prima-facie case of discriminatory failure to train based on gender, under District of Columbia Human Rights Act (DCHRA), individuals with whom plaintiff seeks to compare her treatment must have dealt with same supervisor, have been subject to same standards and have engaged in same conduct without such differentiating or mitigating circumstances that would distinguish their conduct or their employer's treatment of them for it. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Two male co-workers, who were allegedly provided more training opportunities than female employee, were not similarly situated to employee, as required for prima facie case of gender-based failure to train under District of Columbia Human Rights Act (DCHRA); co-workers had different principal job responsibilities and backgrounds than employee. *Robinson*

v. Detroit News, Inc., 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

District of Columbia Human Rights Act reaches employer's allocation of responsibilities among employees of equal rank if employer's allocation is based on sex. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

Female employee who alleged that employer assigned significant job responsibilities to male worker because of her gender, responsibilities which purportedly placed worker in better position for increased compensation and further advancement, alleged materially adverse employment action against her, and therefore, stated claim for disparate treatment under the District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq. *Carpenter v. Fannie Mae*, 949 F. Supp. 26, 1996 U.S. Dist. LEXIS 19477 (1996).

Under District of Columbia law, being discharged on basis of one's transsexuality does not violate District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2512(a)(1). *Underwood v. Archer Management Servs.*, 857 F. Supp. 96, 1994 U.S. Dist. LEXIS 9592 (1994).

Under District of Columbia law, terminated employee stated claim that she was discharged because of her "personal appearance," where she alleged that she was discharged because she was transsexual and had retained some masculine traits. D.C. Code 1981, § 1-2512(a)(1). *Underwood v. Archer Management Servs.*, 857 F. Supp. 96, 1994 U.S. Dist. LEXIS 9592 (1994).

Even assuming that woman promoted to position as program director for program in private university's academic development and continuing education division proved to be incompetent and the program lost vast sums of money under her leadership, such hindsight regarding employer's alleged mistake in hiring the woman did not show discriminatory intent and pretext, for purposes of establishing prima facie case of gender discrimination under District of Columbia Human Rights Act (DCHRA), in action by male employee relating to failure to promote him to the position. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Assuming male marketing manager for program in private university's academic development and continuing education division was at least minimally qualified for promotion to position as program director, his qualifications did not obviously exceed those of woman who was promoted to the position, as would raise inference of purposeful discrimination, for purposes of making prima facie showing of gender discrimination in violation of District of Columbia Human Rights Act (DCHRA); while plaintiff had Master of Business Administration (MBA)

degree and had been working at university for more than ten years, plaintiff did not have experience as supervisor or experience managing a budget, the woman had supervisory and budget management experience, and job description required supervisory experience and stated that budget management experience was highly desirable. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Male marketing manager for program in private university's academic development and continuing education division failed to show that he was qualified for position as program director, as element of prima facie case in action under District of Columbia Human Rights Act (DCHRA) alleging university's failure to promote him was based on gender discrimination; while plaintiff had Master of Business Administration (MBA) degree from the university and had been working at university for more than ten years and therefore was familiar with university, plaintiff had no supervisory experience yet job announcement explained that director would supervise approximately 15 managerial and clerical employees and that four years of relevant experience including supervisory responsibilities were required, and plaintiff had never managed a budget yet job description included oversight and expansion of approximately \$4 million budget as one of director's responsibilities and stated that previous budget/fiscal management experience was highly desirable. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In order to establish prima facie case of sexual discrimination in decision to terminate, female employee had to come forward with evidence that she was fired from job for which she was qualified while men, similarly situated to her, were not terminated, but rather treated more leniently. D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. *O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

Fact that university faculty member negotiated her salary with her employer did not destroy her claim of sex discrimination in compensation. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

— In general.

Alleged failure of hospital to act on black physician's reappointment to medical staff arguably caused physician to suffer injury cognizable under civil rights laws if racial animus animated that refusal. 42 U.S.C. §§ 1981, 1985; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. *Johnson v. Greater Southeast Commu-*

nity Hosp. Corp., 951 F.2d 1268, 1991 U.S. App. LEXIS 28952 (C.A.D.C. 1991).

Hospital officials' alleged discrimination against staff physician on basis of race in their imposition of monitoring and supervision agreement arguably gave rise to private causes of action under Title VII, statute guaranteeing equal rights under the law, civil rights conspiracy statute, and civil rights provisions of the District of Columbia Code. 42 U.S.C. §§ 1981, 1985; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. *Johnson v. Greater Southeast Community Hosp. Corp.*, 951 F.2d 1268, 1991 U.S. App. LEXIS 28952 (C.A.D.C. 1991).

Employee's descriptions of herself as Mexican-American, Latina, Hispanic, and a "woman of color" all placed her within the protected class under the District of Columbia Human Rights Act (DCHRA). *Valles-Hall v. Ctr. for Nonprofit Advancement*, 481 F.Supp.2d 118, 2007 U.S. Dist. LEXIS 22046 (2007), appeal dismissed by 2007 U.S. App. LEXIS 20637 (D.C. Cir. Aug. 24, 2007).

Supervisor's scolding of hospital admissions financial advisor, for being rude to physician, was not "adverse employment action," sufficient to support age discrimination claim under Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA); there was no change in employment status. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Washington Metropolitan Area Transit Authority (WMATA), established by compact between District of Columbia, Maryland and Virginia, was not subject to employment discrimination claims under District of Columbia Human Rights Act. *Taylor v. Washington Metro. Area Transit Auth.*, 109 F.Supp.2d 11, 2000 U.S. Dist. LEXIS 11575 (2000), affirmed by 2000 U.S. App. LEXIS 35427 (D.C. Cir. Dec. 20, 2000).

To sustain claim of discrimination or retaliation under District of Columbia Human Rights Act (DCHRA), plaintiff must allege adverse employment action. D.C. Code 1981, § 1-2512. *Walker v. Washington Metro. Area Transit Auth.*, 102 F.Supp.2d 24, 2000 U.S. Dist. LEXIS 9414 (2000).

Inappropriate but isolated comments that amount to no more than stray remarks in the workplace do not have any relationship to adverse employment action for purposes of employment discrimination claim. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

As with other workers, at-will employees may not be discharged if grounds for firing are specifically proscribed by some statute. D.C. Code 1981, §§ 1-2512, 11-1913, 36-342. *Washington v. Guest Servs.*, 703 A.2d 646, 1997 D.C.

App. LEXIS 281 (1997), remanded by 718 A.2d 1071, 1998 D.C. App. LEXIS 182, 14 I.E.R. Cas. (BNA) 643 (D.C. 1998).

While it is unlawful under District of Columbia Human Rights Act (DCHRA) to deprive any individual of equal employment opportunities because of his or her sexual orientation, employment practices such as cronyism and favoritism are not actionable under antidiscrimination statutes such as DCHRA. D.C. Code 1981, § 1-2512(a), (a)(1). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Prima facie case of discrimination in denial of promotion normally consists of proof that plaintiff was member of protected class, that he or she was qualified for promotion, that he or she was rejected upon seeking promotion, that substantial factor in that rejection was plaintiff's membership in protected class, and, in cases of plaintiff resignation, that plaintiff was constructively discharged. D.C. Code 1981, § 1-2512(a). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

At-will employee did not have cause of action against her former employer for wrongful discharge based on Human Rights Act, absent showing she was victim of discrimination. D.C. Code 1981, §§ 1-2511 et seq., 1-2512(a). *Sorrells v. Garfinckel's, Brooks Bros., Miller & Rhoads, Inc.*, 565 A.2d 285, 1989 D.C. App. LEXIS 207 (1989).

Employer's mistaken belief that one employee's conduct is more serious and deserves a harsher response is not a pretext for discrimination if the belief is credible and is not a sham or pretext. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

An employer cannot negotiate away an employee's statutory rights to equal pay. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

— Origin, discrimination.

In suit by female grade 12 environmental engineer of Peruvian national origin under Title VII and District of Columbia Human Rights Act (DCHRA) alleging discrimination and retaliation with regard to her denial of competitive promotion, reason proffered by District of Columbia Department of Environment (DDOE) for canceling vacancy announcement for grade 13 environmental specialist position after plaintiff had made certification list, that budgetary constraints in fiscal year prevented it from filling position for which plaintiff applied but that with start of new fiscal year it was able to repost position, was legitimate, nondiscriminatory and nonretaliatory and shifted burden back to plaintiff to show that reason was pretext for discrimination based on sex and/or

national origin and/or retaliation. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

District of Columbia Department of Environment (DDOE) employee, a grade 12 female environmental engineer of Peruvian national origin, established prima facie case of discrimination or retaliation under Title VII and District of Columbia Human Rights Act (DCHRA) based on employer's failure to award her competitive promotion when she applied for grade 13 environmental specialist position that was cancelled without being filled; employee argued that decision to cancel position came after she made certification list and it became apparent she was the most qualified person thereon and "residency preference" would prevent decisionmaker from selecting white male he wanted, and she produced evidence that at approximately the same time that position was being cancelled new vacancy for grade 13 environmental specialist was announced which was filled by the white male candidate. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Reason proffered by District of Columbia Department of Environment (DDOE) for denial of request for noncompetitive promotion by female environmental engineer of Peruvian origin, that prior to adoption of promotions policy no noncompetitive promotions were being given and employees who sought higher grade were required to apply for open (posted) position, was legitimate, nondiscriminatory and nonretaliatory and shifted burden to plaintiff engineer to show that reason was pretext for discrimination based on her sex and/or national origin or retaliation under Title VII or District of Columbia Human Rights Act (DCHRA). *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

— Personal appearance, discrimination.

Employer's policy regarding employee hairstyle was sufficiently specific to satisfy "prescribed standards" element of statutory exception to prohibition against discrimination on basis of personal appearance, with respect to employee forbidden to wear ponytail by supervisor; written criteria of "neat hairstyle" and "cleanshaven face" with trimmed mustache permitted communicated general rule that employees working at particular facility conform to traditional grooming styles, and supervisor's application of written policy to forbid ponytails was not an unreasonable or unforeseeable interpretation of policy. D.C. Code 1981, §§ 1-2502(22), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

Employer who seeks to establish a "reasonable business purpose," under "prescribed standards" exception to prohibition of discrimina-

tion on basis of personal appearance only has to show objectively reasonable justification for uniformly regulating its employees' personal appearances; business purpose need not reach status of a "necessity," failing which the business cannot be conducted. D.C. Code 1981, §§ 1-2502(22), 1-2503(a), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

— Pregnancy, discrimination.

Exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan did not constitute a violation of District of Columbia Human Rights Law prohibiting employers from treating marriage or lack of marriage as a lawful factor to be considered in hire, tenure or conditions of employment, and prohibiting disparate treatment of married and unmarried mothers, because with respect to such plan, there was no evidence whatsoever of discrimination on basis of marital status. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Company-paid sick leave and benefit plan, which excluded pregnancy-related disabilities, did not amount to discrimination against persons with "family responsibilities," a prohibited practice under District of Columbia Human Rights Law, because once actual dependency occurs, a mother is free and clear under maternity leave clause to resume employment whenever her health permits, and because it would be a strange paradox to condemn as discriminatory a practice which might hurt a person's "potential" for family responsibilities, but harms not in slightest persons whose family responsibilities have indeed materialized. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

Provision of District of Columbia Human Rights Law which added to categories protected against discrimination did not compel finding that exclusion of pregnancy-related disabilities from company-paid sick leave and benefit plan violated Human Rights Law. D.C. Code 1981, § 1-2501 et seq. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

— Race, discrimination.

Hispanic metropolitan police department captain alleged only one injury in his action against District of Columbia (D.C.), alleging employment discrimination and retaliation claims under § 1983 and D.C. Human Rights Act; in count alleging both federal and D.C. law theories of liability, captain claimed that he

suffered emotional distress and humiliation as result of D.C.'s actions, and trial judge later instructed jury to compensate captain under § 1983 for any "actual pain, suffering and emotional distress he endured" due to any constitutional deprivation and similarly instructed jury to compensate captain under D.C. Human Rights Act "for emotional pain, suffering, inconvenience and mental anguish" due to D.C.'s retaliation. *Medina v. District of Columbia*, 643 F.3d 323, 2011 U.S. App. LEXIS 13389 (C.A.D.C. 2011).

Chief executive officer's (CEO) decision to fire his assistant because they had incompatible styles of work was not pretext for race or gender discrimination, in violation of District of Columbia Human Rights Act (DCHRA), despite assistant's contention that she had positive working relationship with CEO, where CEO had hired assistant, employer's human resources manager documented CEO's history of complaints about assistant's performance, and there was no evidence that CEO did not believe that assistant was responsible for problems he encountered. *Vatel v. Alliance of Auto. Mfrs.*, 627 F.3d 1245, 2011 U.S. App. LEXIS 855 (C.A.D.C. 2011).

Allegations by employee, who was a native of the Democratic Republic of the Congo, were insufficient to plead discriminatory change in the terms of his employment at hospital, as required for employee's hostile work environment proceedings under Title VII and the District of Columbia Human Rights Act; employee alleged that a supervisor said many Americans were looking for a job and it would be easy to replace employee, that a manager criticized his accent in front of coworkers on more than one occasion, and that a manager said she would not hire other Africans. *Badibanga v. Howard Univ. Hosp.*, 679 F.Supp.2d 99, 2010 U.S. Dist. LEXIS 4305 (2010).

Second telephone interview of African-American candidate for position instead of customary in-person interview was not racially discriminatory under District of Columbia Human Rights Act (DCHRA); reinterview was far more extensive than short qualifying telephone interview conducted by screening official, and screening official's forwarding of candidate's email that was rife with grammatical and spelling errors and statement to reinterviewer that she did not believe candidate was qualified to fulfill job's administrative and paperwork functions did not support inference that hiring process was not fairly administered and influenced by screening official or that reinterviewer's decision was based on race. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

Fact that nonprofit health organization, in response to form request from state division of unemployment insurance, indicated that Afri-

can-American employee quit, rather than stating that she turned down offer for staff nurse job after her position of occupational health nurse was eliminated, did not support inference of race discrimination, as required for employee to establish claim under District of Columbia Human Rights Act (DCHRA); organization regarded employee's separation as voluntary because she turned down the offer. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Pay disparity between African-American employee of nonprofit health organization, who was an occupational health nurse, and Caucasian female coworker, who was a staff health nurse, did not support an inference of race discrimination, as required for employee to establish claim under District of Columbia Human Rights Act (DCHRA); although both positions had same pay range and shared some of the same responsibilities, they were not identical positions, and staff health nurse had master's degree, while employee had not yet completed bachelor's degree. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Pay disparity between African-American employee of nonprofit health organization, who was an occupational health nurse, and her former supervisor, a Caucasian male, did not support an inference of race discrimination, as required for employee to establish claim under District of Columbia Human Rights Act (DCHRA); even though employee assumed some of supervisor's job responsibilities after he resigned, employee was not similarly situated to him, as she never performed any supervisory responsibilities. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Nonprofit health organization's refusal to increase African-American employee's pay for staff nurse job, which was offered to her after her position as occupational health nurse was eliminated, and termination of employee when she declined offer was not race discrimination under the District of Columbia Human Rights Act (DCHRA), even though new position was in higher salary range; corporate restructuring and fact that employee's existing salary was within range for new position were legitimate, nondiscriminatory reasons for organization's conduct. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Because District of Columbia (D.C.) employee of Indian descent presented no evidence of a decision not to consider his application for

job position independent of the decision to terminate him, he failed to provide the jury with a sufficient basis upon which to determine whether employer's actions with respect to his application were based on the characteristic that placed him in a protected class for purposes of District of Columbia Human Rights Act (DCHRA). *Kumar v. D.C. Water & Sewer Auth.*, 25 A.3d 9, 2011 D.C. App. LEXIS 371 (2011).

African-American marketing manager for program in private university's academic development and continuing education division failed to show that race was substantial factor in university's failure to promote him to position as program director, as element of prima facie case of race discrimination under District of Columbia Human Rights Act (DCHRA); the woman who received the promotion was in same protected class of African-Americans. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

— Religion, discrimination.

Allegations by employee, who was a Muslim from Morocco, that he complained about discrimination in being removed from serving two floors as a valet dry cleaner, that he was scheduled for only one day of work in the month following his complaint, and that he previously worked anywhere from five to seven days per week were sufficient to plead a materially adverse action, as required for his Title VII and District of Columbia Human Rights Act (DCHRA) retaliation claims against hotel. *Arafi v. Mandarin Oriental*, 2012 WL 2021889 (2012).

Allegations of amended complaint were specific enough to give restaurant corporation and owner fair notice of District of Columbia Human Rights Act (DCHRA) claims being asserted by three of five restaurant employees; amended complaint alleged that two of them were terminated due to their religious observance of Ramadan and Christmas Eve, respectively, during their tenure as employees at restaurant and that third was fired for speaking Spanish, and defendants could be reasonably expected to know approximately when those employees were terminated. *Arencibia v. 2401 Rest. Corp.*, 699 F.Supp.2d 318, 2010 U.S. Dist. LEXIS 31369 (2010).

Because employee did not claim discrimination directed at his own religion, he was not a member of a class expressly protected by the District of Columbia Human Rights Act (DCHRA); employee allegedly was targeted not as a member of a protected class, but for not holding the same religious beliefs as his employer representatives. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

Employee, who alleged that he was targeted not as a member of a protected class, but for not holding the same religious beliefs as his em-

ployer, failed to show that the harassment he endured would not have taken place but for his status as a non-member of particular church, and thus, employee did not establish that the harassment he experienced was motivated by religious animus; the inferences of religious discrimination that employee proffered as the source of harassment were simply too speculative for reasonable jury to have drawn, and the treatment employee experienced was product not of discriminatory animus based on religion, but, rather, the result of personal conflicts between employee and his co-workers and/or supervisors. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

— Sexual harassment, discrimination.

Former hair salon employee's District of Columbia Human Rights Act (DCHRA) claims were timely under continuing violation doctrine; it was combination of events which led her to quit and to sue, her allegations of highly sexualized workplace along with sexual propositions and targeted attention on her by salon owner were more than enough to provide grounds for sexual harassment claim, and she was not suing solely on basis of series alleged assaults, but on alleged pattern of sexual harassment which included assaults. *Thong v. Andre Chreky Salon*, 634 F.Supp.2d 40, 2009 U.S. Dist. LEXIS 59463 (2009).

To establish sexual harassment claim based on gender under District of Columbia Human Rights Act (DCHRA), plaintiff can either demonstrate that: (1) harasser is motivated by sexual desire, (2) form of harassment itself demonstrates general hostility to persons of that gender in workplace, or (3) through evidence of disparate treatment among sexes in mixed sex workplace. *Smith v. Cafe Asia*, 256 F.R.D. 247, 2009 U.S. Dist. LEXIS 23195 (2009).

To prove sexual harassment claim under District of Columbia Human Rights Act (DCHRA), plaintiff must demonstrate that: (1) he is member of protected class; (2) he was subject to unwelcome harassment; (3) harassment occurred because of his membership in protected class; and (4) harassment was severe enough to affect term or condition of his employment. *Smith v. Cafe Asia*, 256 F.R.D. 247, 2009 U.S. Dist. LEXIS 23195 (2009).

Sexual harassment claims are actionable under District of Columbia Human Rights Act (DCHRA) when harassment creates hostile or abusive working environment, even if harassment does not culminate in specific adverse employment action. *Smith v. Cafe Asia*, 256 F.R.D. 247, 2009 U.S. Dist. LEXIS 23195 (2009).

Supervisor's combination of inappropriate sexual conduct and retaliatory adverse treat-

ment after homosexual employee's complaint helped demonstrate the inadequacy of employer's response and, thus, was relevant to both liability and damages in administrative proceeding on employee's sexual harassment-hostile work environment claim. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

All adverse conduct is relevant to a sexual harassment-hostile work environment claim so long as it would not have taken place but for the gender of the alleged victim. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Conduct need not be overtly sexual to contribute to a sexual harassment-hostile work environment claim. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Sexual harassment which creates a discriminatory environment but does not cause any employee loss of any tangible work benefits such as promotion is nevertheless "discrimination" in a term, condition or privilege of employment, for purposes of the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

For purposes of establishing a prima facie case of sexual harassment, "unwelcome" conduct is conduct which the employee did not solicit or incite and which the employee regarded as undesirable or offensive. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Test to determine whether an action legally constitutes sexual harassment is a balancing test including factors such as amount and nature of the conduct, the plaintiff's response, and relationship between the plaintiff and the harassing party; such test, which recognizes that a hostile and intimidating environment results from various combinations of frequency and offensiveness of behavior, allows jury to determine, as representative of larger community, on case-by-case basis, behavior which values and norms of community, as only generally expressed in statutes prescribing such conduct, will not tolerate. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

For purposes of establishing a prima facie case of sexual harassment, whether the work environment has been rendered abusive or offensive depends upon the plaintiff's showing that her psychological well-being has been detrimentally affected; in effect, the plaintiff is required to show some emotional damages as a

result of the harassment, and the issue is whether the work environment has been poisoned by sexual insults and demeaning propositions. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

A plaintiff establishes a prima facie case of sexual harassment, for purposes of the District of Columbia Human Rights Act, upon demonstrating that unwelcome verbal and/or physical advances of a sexual nature were directed at him/her in the workplace and resulted in a hostile or abusive working environment. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Finding that complainant was sexually harassed by her immediate supervisor, though supported by substantial evidence in record, was insufficient to warrant a further finding of a discriminatory employment practice where employer thereafter met its burden of articulating a legitimate, nondiscriminatory reason for complainant's termination, insubordination in refusing to prepare a requested memorandum, and complainant failed to meet her burden of proving that memorandum request was a sham and that it was her rejection of sexual advances by her immediate supervisor that led to her discharge. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a), (a)(1), 1-2553(a)(1)(D, E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

Evidence of incidents of sexual harassment reported by other females bears on a plaintiff's claim of sexual harassment and is relevant to show a hostile work environment. *Drake v. Henkels & McCoy, Inc.*, 123 WLR 2225 (Super. Ct. 1995).

Based on comments made by the site supervisor, and by the other male employees working under his supervision, there was more than sufficient evidence from which a reasonable jury could conclude that there was sexual harassment of employees in subjecting them to a severe and pervasive pattern of sexual comments and acts which created a hostile work environment. *Drake v. Henkels & McCoy, Inc.*, 123 WLR 2225 (Super. Ct. 1995).

There was substantial evidence of corporate higher up officials acting in a manner to condone the conduct constituting sexual harassment, and in some instances encouraging supervisor's conduct, which the jury could find constituted sexual harassment and retaliation in the case. *Drake v. Henkels & McCoy, Inc.*, 123 WLR 2225 (Super. Ct. 1995).

— Sexual orientation, discrimination.

Under District of Columbia law, former employee's conclusory statement that she was dis-

charged on the basis of her transsexuality, her medical transformation from being man to woman, does not state claim for relief on basis of being discharged based upon "sexual orientation." D.C. Code 1981, § 1-2512(a)(1). *Underwood v. Archer Management Servs.*, 857 F. Supp. 96, 1994 U.S. Dist. LEXIS 9592 (1994).

Evidence as to managers' sexual orientation was relevant to question of whether their alleged harassment of former employee was due to his sexual orientation, and thus was discoverable by interrogatory in employee's sexual harassment action against employer under District of Columbia Human Rights Act (DCHRA), where employee alleged that managers treated him differently from female and heterosexual employees by failing to seriously consider or respond to his complaints of harassment. D.C. Official Code, 256 F.R.D. 247 (2001).

Evidence as to employees' sexual orientation was relevant to question of whether their alleged harassment of former co-worker was motivated by sexual desire, and thus was discoverable by interrogatory in co-worker's sexual harassment action against employer under District of Columbia Human Rights Act (DCHRA). D.C. Official Code, 256 F.R.D. 247 (2001).

Proposed initiative that, if enacted, would establish that 'only a marriage between a man and a woman [would be] valid or recognized in the District of Columbia' would violate Human Rights Act, which prohibited certain acts for discriminatory reason based on a person's actual or perceived sexual orientation or gender identity, and, accordingly, the District of Columbia Board of Elections and Ethics could reject initiative under provision of Initiative, Referendum and Recall Procedures Act (IPA) that allowed board to reject proposed initiative if measure would authorize or would have effect of authorizing discrimination prohibited under Human Rights Act; under law already in effect, same-sex persons in District of Columbia who were validly married in other states were considered to be validly married in District of Columbia, and initiative, if enacted, would deprive only same-sex persons of legal status, rights, and privileges that they enjoyed as married persons. *Jackson et al. v. D.C. Board of Elections and Ethics*, 138 WLR 173 (Super. Ct. 2010).

Proposed initiative that, if enacted, would establish that 'only a marriage between a man and a woman [would be] valid or recognized in the District of Columbia' would violate Human Rights Act, which prohibited certain acts for a discriminatory reason based on a person's actual or perceived sexual orientation or gender identity, and, accordingly, District of Columbia Board of Elections and Ethics could reject initiative because measure would violate existing District of Columbia law. *Jackson et al. v. D.C.*

Board of Elections and Ethics, 138 WLR 173 (Super. Ct. 2010).

Disparate treatment.

Employer's proffered reasons for alleged disparate treatment of African-American assistant manager while he was in on-the-job training program were legitimate and nondiscriminatory and shifted burden to employee to show they were pretext for racial discrimination under § 1981 and/or District of Columbia Human Rights Act (DCHRA); employer proffered testimony that its company practice was to not allow any trainees to use notes during final exam, that only department managers were allowed to participate in management meetings, and that only those individuals training to become department managers received 44 hours of training per week. *Deloatch v. Harris Teeter, Inc.*, 797 F.Supp.2d 48, 2011 U.S. Dist. LEXIS 75261 (2011).

Under a disparate treatment theory of liability for age discrimination under ADEA and the District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate that his employer intentionally treated him less favorably because of his age. *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 4, 2008 U.S. Dist. LEXIS 72982 (2008).

Need for a new management team was legitimate, nondiscriminatory reason for demotion of female employees, and was not pretext, on employees' District of Columbia Human Rights Act (DCHRA) claims against employer; no evidence showed that manager did not actually believe that management team was dysfunctional and action was taken against entire unit. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Demotion of female employees, upon their return following suspensions which internal investigation found to be groundless, was not adverse employment action, as required to support employee's gender-based disparate treatment claims against employer, under District of Columbia Human Rights Act (DCHRA); demotion was separate management decision, made by different party than the suspensions, and the entire management team, including male employee, was subjected to the same adverse action. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Suspension of female employees, pending internal investigation, was not adverse employment action, as required to establish prima facie claim of gender-based disparate treatment in violation of District of Columbia Human Rights Act (DCHRA); following investigation, in which employees were cleared, the suspensions were rescinded and paid, in next pay cycle, for time they had missed, and employees were reinstated. *Dickerson v. SecTek*,

Inc., 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Employer proffered legitimate, nondiscriminatory reason for requiring female employee to work overtime, while not requiring male employees to work overtime, claiming that employee was required to work overtime due to her special employment status, on employee's gender-based disparate treatment claim under District of Columbia Human Rights Act (DCHRA); female employee was key personnel, and as such, she had special responsibilities to assure that posts were covered, and employee was only called for overtime when an actual need existed. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Female employee failed to show that employer's overtime requirements applied only to female employees, and not to similarly situated male employees, as required to establish prima facie claim of gender-based disparate treatment in violation of District of Columbia Human Rights Act (DCHRA); employee was designated "key personnel" and consequently carried a greater obligation to cover posts and ensure that positions were covered than did male officers who were not "key personnel." *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Female employee failed to show that non-participation in non-selective body was adverse employment action, as required to establish prima facie case of gender-based disparate treatment in violation of District of Columbia Human Rights Act (DCHRA); no evidence showed that supervisor was deliberately complicit in employee's ignorance of non-selective body's existence, although some other employees may have been specifically asked to participate. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Demotion of female employee was not adverse employment action as would satisfy requirements for prima facie claim of gender-based disparate treatment, under District of Columbia Human Rights Law (DCHRA), where employee learned of demotion day before it was to take effect, the change never took effect, and employee continued to serve in normal role as shift supervisor. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Under the McDonnell Douglas test for disparate treatment discrimination, the fourth prong's comparison with another employee who is "similarly situated" does not mean "identical" in a situation where the employee has not been replaced. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Employee is considered similarly situated to employment discrimination plaintiff for the

purpose of showing disparate treatment when all of the relevant aspects of plaintiff's employment situation are nearly identical to those of the other employee, and similarity between the plaintiff and the other employee must exist in all relevant aspects of their respective employment circumstances, which include both their rank in the company and the alleged misconduct. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To be similarly situated for purposes of employment discrimination plaintiff's disparate treatment claim, plaintiff and the other employee must have engaged in the same conduct without such differentiating or mitigating circumstances that would distinguish their conduct or employer's treatment of them for it. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Since employee was an officer of the corporation, nonofficers were not included in the class of similarly situated individuals for purposes of employee's disparate treatment claim; officer had different responsibilities from non-officer, and different standard of conduct was expected of him. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Female employee who was asked to resign because of misconduct failed to show that she was victim of disparate treatment in manner of her termination, although male employee who had performed inadequately had been demoted and another male employee who had experienced friction with coemployees had been transferred to another position; men fired because of their conduct were asked to resign. D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. *O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

The prima facie case established by employee in disparate treatment suit brought against employer under the Human Rights Act raises a presumption that the employer's action, if otherwise unexplained, was more likely than not based on a consideration of impermissible factors. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

In a disparate treatment case filed under the Human Rights Act against an employer, the employee may prove that the employer's proffered reason for the employment action was a pretext either directly by showing that a discriminatory reason more likely motivated the action, or indirectly, by showing that the employer's proffered reason for the disparate treatment is unworthy of credence. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*,

485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Employer's proffered reason that it fired employee because she had used a weapon in a fight with her husband, who was also an employee on employer's property and merely reprimanded employee's husband since he had not used a weapon, was based on admissible evidence and satisfied its burden at the second stage of the proofs in an action for disparate treatment based on sex to articulate a legitimate, nondiscriminatory reason for the employment action. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Record in action against employer for disparate treatment based on sex did not support the Commission on Human Rights' finding that employer's reliance on employee's misconduct as grounds for dismissal was a pretext for discrimination as the fact that the Commission disagreed with the employer's findings as to the circumstances surrounding the fight between employee and her husband, who was also an employee, did not show that the employer's reason to discipline the employees differently, based on the employer's supported findings, was unworthy of belief or pretextual. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Defendant employer in disparate treatment suit brought under the Human Rights Act need not persuade the fact finder that the proffered nondiscriminatory reason for the employment action was the actual motivation for the employment action as the employer need only raise a genuine issue of fact as to whether it discriminated against the employee. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

A female plaintiff may be entitled to recovery for unlawful sex discrimination for a differential in pay compensation even when the jobs are not substantially equal, and even if the Equal Pay Act, 29 U.S.C. § 201, has not been violated. *Tyler v. Howard Univ.*, 124 WLR 49 (Super. Ct. 1995).

The court adopted a "continuing violation" theory for equal pay discrimination claims, whereby the plaintiff suffers a denial of equal pay with each paycheck that is received; thus, so long as the plaintiff receives some salary payments within one year of filing the complaint, the equal pay claim will not be barred by the one-year statute of limitations for such claims. *Mackey v. Committee for Economic Development*, 126 WLR 1089 (Super. Ct. 1998).

Duty to mitigate damages.

Absent constructive discharge, worker suffer-

ing from discrimination in workplace had duty to stay on job and mitigate damages. D.C. Code 1981, § 1-2512(a). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Election of remedies.

Verdict in favor of plaintiff on claim under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., would be required to rest on finding of sex discrimination and/or retaliation, rather than race discrimination, because legal standards applicable and instructions given at trial under the DCHRA and 42 U.S.C. § 1981 were identical, and because jury found against plaintiff on her § 1981 claim. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Professor who filed administrative complaint against university under District of Columbia Human Rights Act but failed to seek judicial review of adverse determination was not precluded, under doctrine of election of remedies, from seeking judicial redress for claims under that statute based on events that occurred after she filed administrative complaint. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Plaintiff who failed to seek judicial review of administrative finding of no probable cause to believe that a violation of District of Columbia Human Rights Act (DCHRA) had occurred in her employment as university professor was barred by the doctrine of election of remedies from litigating the same DCHRA retaliation claim in court. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Sex discrimination claimant under the District of Columbia Human Rights Act was precluded from bringing suit in superior court, after her prior administrative complaint had been the subject of a probable cause determination by the Office of Human Rights. D.C. Code 1981, §§ 1-2544(b), 1-2556. *Anderson v. U.S. Safe Deposit Co.*, 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Elements.

The elements for sex discrimination claim under the District of Columbia Human Rights Act (DCHRA) are: (1) that plaintiff suffered an adverse employment action (2) because of her sex. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

In order to demonstrate race discrimination claim under the District of Columbia Human Rights Act (DCHRA), employee must show that (1) he is a member of a protected class, (2) he suffered an adverse employment action, and (3) the adverse action gives rise to an inference of discrimination. *Mason v. DaVita, Inc.*, 542

F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

In order to demonstrate discrimination claim under District of Columbia Human Rights Act, plaintiff must show that: (1) he is member of protected class; (2) he suffered adverse employment action; and (3) adverse action gives rise to inference of discrimination. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

To establish prima facie hostile work environment claim under District of Columbia Human Rights Act, plaintiff must demonstrate that: (1) he is member of protected class, (2) he was subject to unwelcome harassment, (3) harassment occurred because of his race, (4) harassment affected term, condition, or privilege of employment, and (5) employer knew or should have known of harassment, and failed to act to prevent it. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

To make out claim under District of Columbia Human Rights Act (DCHRA) for sex discrimination based on a hostile work environment, plaintiff must show (1) that the defendant was engaged in offensive and disparaging conduct; (2) that the conduct was based on sex; and (3) that it was sufficiently severe or pervasive that a reasonable person in her position would find her work environment to be hostile or abusive. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

To qualify as an adverse employment action in context of District of Columbia Human Rights Act (DCHRA), there must be some objective harm: a tangible change in the duties or working conditions constituting a material employment disadvantage; paradigmatically, this means discharge, but actions such as demotion, undesirable reassignment, or the loss of a bonus can also count as adverse. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Generally, prima-facie case of discriminatory failure to train based on gender, under District of Columbia Human Rights Act (DCHRA), consists of following elements: (1) plaintiff is member of protected class, (2) employer provided training to its employees, (3) plaintiff was eligible for training, and (4) plaintiff was denied training given to other similarly situated employees who were not members of protected group. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

African-American former employee of automobile dealership established a prima facie case of racial discrimination under the District of Columbia Human Rights Act (DCHRA); former employee belonged to a protected class, possessed skills required of an automobile sales

manager, even though he allegedly violated company policy or was dishonest, and won a verdict after jury trial in a prior discrimination claim lodged against dealership, thus suggesting that he may have been fired because of racial animosity by dealership. *D.C. Code 1981, § 1-2512. Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

To establish a prima facie case of discrimination under the District of Columbia Human Rights Act (DCHRA), plaintiff must show that (1) plaintiff belongs to a protected class; (2) plaintiff was qualified for the job from which he or she was terminated; (3) plaintiff's termination occurred despite his or her employment qualifications; and (4) plaintiff's termination was based on the characteristic that placed him or her in the protected class. *D.C. Code 1981, § 1-2512. Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

To establish a prima facie case of discriminatory termination under District of Columbia Human Rights Act (DCHRA), a plaintiff generally must demonstrate: (1) that he was a member of a protected class; (2) that he was qualified for the job from which he was terminated; (3) that his termination occurred despite his employment qualifications; and (4) that a substantial factor in his termination was his membership in the protected class. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

To establish prima facie case of discriminatory failure to promote, in action under District of Columbia Human Rights Act (DCHRA), employee must prove four elements: (1) that he was member of protected class; (2) that he applied for job for which he was qualified; (3) that he was rejected in favor of another applicant; and (4) that substantial factor in employment decision was his membership in protected class. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Once a presumption of discrimination is raised under the District of Columbia Human Rights Act (DCHRA) by employee's prima facie case, the burden shifts to the employer to rebut it by articulating some legitimate, nondiscriminatory reasons for the employment action. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), once employer articulates legitimate, nondiscriminatory reasons for the employment action, the

burden shifts back to the employee to prove, by a preponderance of the evidence, that the employer's stated justification for its action was not its true reason but was in fact merely a pretext to disguise discriminatory practice. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

To establish a prima facie case of age or race discrimination in violation of the District of Columbia Human Rights Act (DCHRA) with regard to her demotion and termination, employee was required to show (1) that she belonged to a protected class; (2) that she was qualified for the jobs from which she was demoted and terminated; (3) that her demotion and termination occurred despite her employment qualifications; and (4) that her demotion and termination was based on the characteristic that placed her in the protected class. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

To prove sex or gender discrimination under District of Columbia Human Rights Act (DCHRA), employee was required, initially, to make a prima facie showing of discrimination by a preponderance of the evidence, and prima facie case could be made by demonstrating that employee was member of protected class, that she was qualified for promotion, that she was rejected upon seeking the promotion, and that substantial factor in her rejection was her membership in protected class. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Plaintiff has viable hostile work environment claim under District of Columbia Human Rights Act (DCHRA) if he can demonstrate that he is member of protected class, that he has been subjected to unwelcome harassment, that harassment was based on membership in protected class, and that harassment is severe and pervasive enough to affect term, condition, or privilege of employment. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

To establish a prima facie case of discriminatory discharge under Human Rights Act, plaintiff had to demonstrate that (1) she belonged to a protected class; (2) that she was qualified for job from which she was terminated; (3) that her termination occurred despite her employment qualifications; (4) and that her termination was based on the characteristic that placed her in protected class. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

To establish that race was a substantial factor in employee's termination in violation of Human Rights Act, employee must demonstrate that: (1) she was replaced by a person outside of her protected class, or, if position has

remained vacant, that employer has continued to solicit applications for position; or (2) that other similarly situated employees were not terminated but were instead treated more favorably. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

Proof of a claim of disparate treatment in employment under the Human Rights Act proceeds in three steps: first, the plaintiff must prove by a preponderance of the evidence a prima facie case of discrimination, the burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the employment action and, finally the employee must show that the employer's proffered reason was in fact a pretext for discrimination. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Employer.

Building operations manager who was the former supervisor of custodian was an "employer" within meaning of the District of Columbia Human Rights Act (DCHRA), and thus manager could be held individually liable for discrimination and retaliation under the DCHRA in custodian's suit. *Zelaya v. UNICCO Serv. Co.*, 587 F.Supp.2d 277, 2008 U.S. Dist. LEXIS 96495 (2008).

Individual defendants that former employee sought to add as defendants in action against former employer for alleged sexual harassment and discrimination based on sexual orientation in violation of District of Columbia Human Rights Act (DCHRA) could be classified as employers under DCHRA, and thus amendment was not futile; individual defendants were managers who acted in interest of employer, who either perpetrated or witnessed and failed to stop alleged discriminatory acts, or to whom employee complained without success about alleged acts. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Estoppel.

Where former employee brought claims of racial discrimination and retaliation under the District of Columbia Human Rights Act (DCHRA) against automobile dealership and a claim of aiding and abetting such conduct against its owner-president, judgment in favor of dealership, unless reversed on appeal, was entitled to collateral estoppel effect as to the claim asserted against owner-president. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Evidence.

There was no evidence that consulting group

lied about who made decision to terminate female managing consultant, as would be evidence for pretext for discrimination in her action alleging age and gender discrimination in violation of the Age Discrimination in Employment Act (ADEA) and District of Columbia Human Rights Act (DCHRA). *Barnett v. PA Consulting Group, Inc.*, 818 F.Supp.2d 159, 2011 U.S. Dist. LEXIS 119585 (2011).

Supervisor's alleged statement to Hispanic employee, that "[i]f making judgments about people and telling them is a cultural thing, then maybe we should tell the staff it's a cultural thing and they should buck up and take it," if proven, was at most a stray remark that, although probative of discrimination, could not serve as direct evidence of discrimination under §§ 1981 or the District of Columbia Human Rights Act (DCHRA). *Valles-Hall v. Ctr. for Nonprofit Advancement*, 481 F.Supp.2d 118, 2007 U.S. Dist. LEXIS 22046 (2007), appeal dismissed by 2007 U.S. App. LEXIS 20637 (D.C. Cir. Aug. 24, 2007).

A plaintiff may prove his claim under §§ 1981 or the District of Columbia Human Rights Act (DCHRA) with direct evidence, and absent direct evidence, he may indirectly prove discrimination under the burden-shifting analysis created by *McDonnell Douglas Corp. v. Valles-Hall v. Ctr. for Nonprofit Advancement*, 481 F.Supp.2d 118, 2007 U.S. Dist. LEXIS 22046 (2007), appeal dismissed by 2007 U.S. App. LEXIS 20637 (D.C. Cir. Aug. 24, 2007).

Form signed by former employee was type of form that new employees typically are required to fill out when accepting position with new company, was silent on issues of promotion and evaluation and, in area of compensation, only indicated former employee's annual salary; therefore, form was insufficient to satisfy District of Columbia's statute of frauds for purposes of former employee's breach of contract claims that he was not treated in accordance with contractual agreement he had with employer in area of compensation, evaluation, and promotion. D.C. Code 1981, § 28-3502. *Prouty v. National R. Passenger Corp.*, 572 F. Supp. 200, 1983 U.S. Dist. LEXIS 12963 (1983).

Evidence that deputy mayor for Office of Deputy Mayor for Education (ODME) hired younger worker for new position with understanding that she might be leaving for different job, without more, did not create fact issue whether deputy mayor's reasons for decision to not offer position to 62-year-old employee and to terminate her following reduction and reorganization, namely, because worker had superior qualifications for position and had better performance reviews, were pretext for age discrimination, as required to survive summary judgment in employee's action under District of Columbia Human Rights Act (DCHRA); employee acknowledged that she never heard any

comments from deputy mayor or his staff make disparaging or discriminatory comments about her age, deputy mayor had hired three women over age 40, and deputy mayor's hiring/retention practices showed that he hired older workers and had retained other older workers. *Cain v. Reinoso*, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

Deposition testimony by former employee for Office of Deputy Mayor for Education (ODME) that her performance evaluation by deputy mayor was "bogus," based on unsupported assertions deputy mayor was lying about incident of plagiarism in context of his confirmation hearings and that he had to cover-up lie as to younger worker, who was given position that employee sought, as source of plagiarized material, did not create fact issue as to whether ODME's reasons for terminating 62-year-old employee's position as part of reduction in staff, namely her lack of qualifications for new position and superior qualifications of coworker, were pretext for age discrimination, as required to survive summary judgment on claim of age discrimination under District of Columbia Human Rights Act (DCHRA); there was no evidence on summary judgment indicating that coworker was responsible for plagiarism, his admission to responsibility for plagiarism did not indicate that he was lying when he informed Council that party responsible had been reprimanded, and none of evidence relating to plagiarism incident and delay in deputy mayor's confirmation hearing as result of plagiarism did not refute that coworker was more qualified for position or imply that employee's termination was motivated by age. *Cain v. Reinoso*, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

Since employer did not replace employee, its retention of similarly situated employees was not circumstantial evidence of disparate treatment unless those employees were not in employee's protected class for purposes of employee's discrimination claim. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Trial court did not have any discretion, in sex discrimination action against owner of employment agency, to preclude plaintiffs' impeachment of owner with owner's prior criminal conviction for conspiracy to counterfeit or alter currency, where owner's sentence for such conviction ended eight years before commencement of sex discrimination trial. D.C. Code 1981, § 14-305(b)(2)(B). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Exhaustion of administrative remedies.

Black physician who brought civil rights action challenging hospital's requirement that he enter into monitoring and supervision agree-

ment in order to retain his staff privileges was not required to exhaust hospital's internal termination process before bringing civil rights action. 42 U.S.C. §§ 1981, 1985; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. *Johnson v. Greater Southeast Community Hosp. Corp.*, 951 F.2d 1268, 1991 U.S. App. LEXIS 28952 (C.A.D.C. 1991).

Employee had not exhausted his administrative remedies with respect to his discrimination claims before filing pro se suit, as required by both Title VII and District of Columbia Human Rights Act (DCHRA); although he contacted employer requesting reinstatement and expressing his intent to litigate, he did not seek that relief from Equal Employment Opportunity Commission (EEOC), and he was knowledgeable of EEOC, having contacted agency in the past. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

Failure to exhaust administrative remedies ordinarily bars a plaintiff from proceeding on her employment discrimination claims in court. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Department of Labor employee fully exhausted her administrative remedies with respect to her employment discrimination grievances, as required to bring action under Title VII against DOL, where she timely appealed arbitrator's dismissal of her Equal Employment Opportunity (EEO) complaints, and EEO failed to issue a decision on her appeal within 180 days of filing of appeal. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Black female fire fighter with District of Columbia Fire Department was not required to exhaust her administrative remedies under District of Columbia Human Rights Act in order to bring federal civil rights action against fire department under federal civil rights statutes, so that three-year limitations period applicable to her civil rights action was not tolled while her claims were filed with District of Columbia Office of Human Rights. 42 U.S.C. §§ 1981, 1983; D.C. Code 1981, §§ 1-2501 et seq., 1-2512, 1-2543. *Deskins v. Barry*, 729 F. Supp. 1, 1989 U.S. Dist. LEXIS 15977 (1989).

Trial court, instead of dismissing employee's common law assault and battery claim and false imprisonment claim against employer and supervisor, should have stayed the proceeding pending the Department of Employment Services' (DOES) disposition of these claims. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Police officer was required to exhaust administrative remedies before bringing claim for discrimination based on sexual orientation and was not entitled to withdraw complaint from

Office of Human Rights and file lawsuit prior to decision on merits. D.C. Code 1981, §§ 1-2512, 1-2526, 1-2556(a). *Newman v. District of Columbia*, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

Where District of Columbia employee initially filed employment discrimination complaint with District Office of Human Rights, but then voluntarily withdrew her administrative complaint after failing to reach conciliation agreement, employee thereby failed to exhaust her administrative remedies, and could not subsequently maintain civil action in superior court premised on same employment discrimination. D.C. Code 1981, §§ 1-1512, 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Presenters of proposed initiative to set aside recognition of same-sex marriage were not required to exhaust their administrative remedies with District of Columbia Board of Elections and Ethics before they could challenge in court the incorporation of Human Rights Act into Charter Amendments Act by a provision of Initiative, Referendum and Recall Procedures Act (IPA); appropriate forum for adjudicating validity of IPA provision was Superior Court, not board, and, further, there was no prejudice to District of Columbia, which had fully briefed the issue, and prompt resolution of issue, rather than waiting for result of remand, would serve IPA's direction for Superior Court to expedite consideration of challenges to board's initiative decisions. *Jackson et al. v. D.C. Board of Elections and Ethics*, 138 WLR 173 (Super. Ct. 2010).

Failure to promote.

Deposition testimony of private social club's former controller that general manager ruled out African-American employee, who was interim executive chef, for position of executive chef, and that when controller told general manager that she felt he did not "intend to appoint" employee to position, general manager responded "that wasn't true" and controller told general manager that he was a racist, did not raise genuine issue of material fact, for summary judgment purposes in employee's action against club alleging racial discrimination under § 1981 and District of Columbia Human Rights Act (DCHRA), as to whether club considered employee for executive chef position. *Burt v. Nat'l Republican Club of Capitol Hill*, 828 F.Supp.2d 115, 2011 U.S. Dist. LEXIS 141387 (2011).

Restaurant's proffered reason for not promoting line server of Lebanese national origin and pro-Zionist views to position of cook, because he was not qualified for that position, was legitimate and nondiscriminatory and was not shown to be pretext for discrimination under Title VII or District of Columbia Human Rights

Act (DCHRA); both of the persons hired as cooks had experience as chefs whereas plaintiff had no prior food-related jobs other than line cook at another cafe. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

Restaurant line server of Lebanese national origin with pro-Zionist beliefs failed to establish prima facie case of discriminatory failure to promote under Title VII or District of Columbia Human Rights Act (DCHRA), absent evidence that he was qualified for cook positions awarded to two other persons outside protected class or that he applied for those positions. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

To establish prima facie case of discriminatory failure to promote under District of Columbia Human Rights Act (DCHRA), complainant must prove that (1) he was a member of a protected class, (2) he applied for a job for which he was qualified, (3) he was rejected in favor of another applicant, and (4) a substantial factor in the employment decision was his membership in the protected class. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

Failure to state a claim.

Because racial discrimination in employment is a claim upon which relief can be granted under the District of Columbia Human Rights Act (DCHRA), "I was turned down for a job because of my race" is all a complaint has to state to survive a motion to dismiss for failure to state a claim. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Findings.

In employment discrimination action, hearing examiner makes a recommended decision, but the final decision is made by the Commission on Human Rights. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Commission on Human Rights erred in granting employer's motion to enforce settlement, based on oral agreement, with employee, who allegedly was dismissed because of sex discrimination, where Commission failed to make findings of fact as to whether employee had agreed to several material contested issues, i.e., attorney fees, liquidated damages clause, nondisclosure clause or waiver of reinstatement clause, which employer had incorporated into its settlement document. *Garzon v. District of Columbia Comm'n Human Rights*, 578 A.2d 1134, 1990 D.C. App. LEXIS 175 (1990).

Hearing.

Even though neither employee nor employer moved for hearing on issue of whether enforce-

able settlement agreement existed in sex discrimination claim before Commission on Human Rights, where resolution of factual discrepancies inherent in settlement documents and other evidence turned on determination of each party's credibility, hearing was necessary so that sworn testimony, cross-examination, and demeanor evidence could provide sufficient basis for determining whether enforceable settlement agreement existed. D.C. Code 1981, §§ 1-1509(b), 1-1510(a)(3)(A). *Garzon v. District of Columbia Comm'n Human Rights*, 578 A.2d 1134, 1990 D.C. App. LEXIS 175 (1990).

Employer was entitled to a new hearing on discharged employee's complaint filed with District of Columbia Commission on Human Rights alleging that employee had been unlawfully discharged because of his national origin where, eight months after original hearing was completed, hearing examiner had retired without reporting his findings back to Commission and some credibility issues had to be resolved before Commission could make any decision at all. D.C. Code 1981, § 1-2512. *Stevens Chevrolet, Inc. v. Commission on Human Rights*, 498 A.2d 546, 1985 D.C. App. LEXIS 486 (1985).

Hostile work environment.

District of Columbia employee, who worked as high school principal, failed to establish any linkage or correlation between employer's allegedly harassing behavior, including loudly reprimanding employee for failing to return reporter's call and having superintendent make occasional unannounced visits at employee's school, and employee's age or sex, as would support her hostile work environment claim under Title VII and District of Columbia Human Rights Act (DCHRA). *Musgrove v. Gov't of the Dist. of Columbia*, 775 F.Supp.2d 158, 2011 U.S. Dist. LEXIS 37828 (2011), affirmed by 458 Fed. Appx. 1, 2012 U.S. App. LEXIS 1819 (D.C. Cir. 2012).

District of Columbia's alleged actions with regard to employee, who was high school principal, including loudly reprimanding employee for failing to return reporter's call, having superintendent make occasional unannounced visits at employee's school, and having superintendent refuse to meet with her on more than one occasion, were insufficient in their frequency, severity, and offensiveness to support employee's hostile work environment claim based on her age and gender under Title VII and District of Columbia Human Rights Act (DCHRA). *Musgrove v. Gov't of the Dist. of Columbia*, 775 F.Supp.2d 158, 2011 U.S. Dist. LEXIS 37828 (2011), affirmed by 458 Fed. Appx. 1, 2012 U.S. App. LEXIS 1819 (D.C. Cir. 2012).

Comment and laughter by employer's corporate officers that participated in decision to allegedly deny African-American employee a bonus, strip him of managerial responsibilities, and constructively discharge him due to race were admissible as evidence of racial discrimination in employee's action against employer under District of Columbia Human Rights Act (DCHRA); while comment could be probative of racial discrimination, if discriminatory inference was reasonable based on evidence adduced by employee, no such inference without more on the part of laughing officer could reasonably be reached concerning officer's laughter, but nonetheless, laughter was not totally irrelevant to claim. *Harris v. Wackenhut Servs.*, 648 F.Supp.2d 53, 2009 U.S. Dist. LEXIS 77452 (2009), affirmed by 419 Fed. Appx. 1, 2011 U.S. App. LEXIS 9238 (D.C. Cir. 2011).

Those of employer's challenged actions allegedly giving rise to hostile work environment which were not attributable to African-American employee's race were not actionable under District of Columbia Human Rights Act. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Although comments to which African-American employee was subjected could be considered offensive, rude, insensitive, and humiliating, those isolated incidents of offensive conduct were insufficient to create a hostile work environment for purposes of District of Columbia Human Rights Act since employee failed to show how such remarks unreasonably interfered with his work performance. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Plaintiff asserting hostile work environment claim under District of Columbia Human Rights Act must demonstrate that alleged events leading to hostile work environment were connected, since discrete acts constituting discrimination or retaliation claims are different in kind from hostile work environment claim that must be based on severe and pervasive discriminatory intimidation or insult. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

In determining whether hostile work environment claim is substantiated under District of Columbia Human Rights Act, court must look at all circumstances of plaintiff's employment, specifically focusing on such factors as frequency of discriminatory conduct, its severity, whether it was threatening and humiliating or was merely offensive, and whether it unreasonably interfered with employee's work perfor-

mance. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

District of Columbia Human Rights Act is violated when plaintiff demonstrates that workplace is permeated with discriminatory intimidation, ridicule, and insult, and that this behavior is sufficiently severe or pervasive to alter conditions of victim's employment and create abusive working environment. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Isolated comments and incidents attributed to an associate vice president did not in the aggregate show that university-employer perpetrated a deliberate plan to force an employee's resignation, thus defeating the employee's hostile work environment claim under §§ 1981 and the D.C. Human Rights Act (DCHRA). *Sullivan v. Catholic Univ. of Am.*, 387 F.Supp.2d 11, 2005 U.S. Dist. LEXIS 19399 (2005), dismissed by 2006 U.S. App. LEXIS 13018 (D.C. Cir. May 18, 2006).

To establish a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA) an employee must establish that more than a few isolated incidents occurred, and genuinely trivial occurrences will not establish a prima facie case; however, no specific number of incidences, and no specific level of egregiousness need be proved. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To establish a claim of hostile work environment under the District of Columbia Human Rights Act (DCHRA), the employee must demonstrate that: (1) he is a member of a protected class; (2) he has been subjected to unwelcome harassment; (3) the harassment was based on membership in the protected class; and (4) the harassment is severe and pervasive enough to affect a term, condition or privilege of employment. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Private corporation operating correctional facility did not subject female corrections officer to hostile work environment through sexual harassment, in violation of District of Columbia Human Rights Act (DCHRA), when supervisor asked her to visit him in his hotel room and then asked her why she declined; two isolated incidents were insufficient to establish required frequency and severity of harassing conduct. *McCain v. CCA of Tenn., Inc.*, 254 F.Supp.2d 115, 2003 U.S. Dist. LEXIS 4662 (2003).

When a hostile environment is created by a supervisor with authority over the plaintiff employee, the employer may be held vicariously liable for such conduct, under District of Columbia Human Rights Act (DCHRA), subject to an affirmative defense available only if no tan-

gible employment action is taken against the employee. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

It is not required that the plaintiff suffer an actual psychological injury, so long as she actually perceived the conduct to be hostile or abusive, to recover on hostile work environment claim under District of Columbia Human Rights Act (DCHRA). *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

In considering whether a hostile environment exists, in context of District of Columbia Human Rights Act (DCHRA), all the circumstances must be considered, including the severity of the abuse, whether it is physically threatening, and whether it materially interferes with the employee's performance. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Not all abusive behavior, even when it is motivated by discriminatory animus, is actionable under District of Columbia Human Rights Act (DCHRA) or Title VII; rather, a workplace environment becomes hostile for the purposes of Title VII only when offensive conduct permeates the workplace with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Hostile work environment claim does not arise under District of Columbia Human Rights Act (DCHRA) merely because a supervisor uses a particular word or makes an offensive remark. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Under District of Columbia law, as predicted by District Court, liability for hostile work environment under District of Columbia Human Rights Act (DCHRA) does not extend to supervisors or co-workers. D.C. Code 1981, § 1-2512 et seq. *Hunter v. Ark Restaurants Corp.*, 3 F.Supp.2d 9, 1998 U.S. Dist. LEXIS 5781 (1998).

Employer was not liable under Title VII, § 1981, or District of Columbia Human Rights Law to employees for racially hostile environment allegedly created by co-worker's racial remark; supervisor on duty at time of remark took steps to determine what had happened as soon as remark was reported and confronted co-worker same day, as result, co-worker apologized to employees within 24 hours, after further investigation over period of 12 days, employer took decisive action of dismissing co-worker, there were no further incidents, and, while remark was offensive, it was neither threatening nor targeted at employees. 42 U.S.C. § 1981; Civil Rights Act of 1964, § 701

et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. *Hodges v. Washington Tennis Serv. Int'l*, 870 F. Supp. 386, 1994 U.S. Dist. LEXIS 18191 (1994).

Neither Title VII, § 1981, nor District of Columbia Human Rights Law creates cognizable hostile environment discrimination claim against co-worker. 42 U.S.C. § 1981; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2512. *Hodges v. Washington Tennis Serv. Int'l*, 870 F. Supp. 386, 1994 U.S. Dist. LEXIS 18191 (1994).

Even if computer programmer/analyst employed by law firm had earlier been subjected to incidents that constituted a hostile work environment, her conversation with director of human resources in which director told programmer/analyst, who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, that if she could not return on a full-time basis she would be terminated, did not contribute to a hostile work environment such that programmer/analyst's hostile work environment claim accrued and one-year limitations period under the District of Columbia Human Rights Act (DCHRA) began to run when conversation took place; conversation was not part of the work environment as programmer/analyst had been out on medical leave for at least five months, conversation was polite and cordial, and the only continuity between conversation and earlier incidents was recurring requests for accommodation. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Because District of Columbia Human Rights Act (DCHRA) establishes the right to work in an environment free from discriminatory intimidation, ridicule, and insult, it is critical that, in bringing a hostile work environment claim, the plaintiff establish discriminatory harassment. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

In considering hostile work environment claims, a factfinder must examine the totality of the circumstances, including the amount and nature of the conduct, the plaintiff's response to such conduct, and the relationship between the harassing party and the plaintiff. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

A plaintiff has a viable hostile environment claim if he can demonstrate: (1) that he is a member of a protected class; (2) that he has been subjected to unwelcome harassment; (3) that the harassment was based on membership in the protected class; and (4) that the harassment is severe and pervasive enough to affect a term, condition, or privilege of employment. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Under the District of Columbia Human Rights Act (DCHRA), a hostile work environment claim is comprised of a series of separate acts that collectively constitute one unlawful employment practice, and thus, the trier of fact must focus on all the circumstances, including the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it interferes with an employee's work performance. *Lively v. Flexible Packaging Ass'n*, 830 A.2d 874, 2003 D.C. App. LEXIS 536 (2003), remanded by 930 A.2d 984, 2007 D.C. App. LEXIS 551 (D.C. 2007).

Employer created hostile working environment toward female employee under the District of Columbia Human Rights Act (DCHRA), even though there were gaps in the occurrence of the acts constituting the hostile work environment, where over the course of several years employer's president and one other male employee used derogatory and offensive words to describe female employees, president hired male stripper for female employee's birthday, male employee asked female employee to sit on his lap while on business trip, and president had tendency to demean women by criticizing their communication skills when they complained about the harassing, hostile, and humiliating work environment. *Lively v. Flexible Packaging Ass'n*, 830 A.2d 874, 2003 D.C. App. LEXIS 536 (2003), remanded by 930 A.2d 984, 2007 D.C. App. LEXIS 551 (D.C. 2007).

More than few isolated incidents must have occurred in order to establish hostile work environment claim under District of Columbia Human Rights Act (DCHRA); however, no specific number of incidents, and no specific level of egregiousness need be proved. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Test for hostile work environment discrimination under District of Columbia Human Rights Act (DCHRA) is not whether work has been impaired, but whether working conditions have been discriminatorily altered. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

The discrimination proscribed by the District of Columbia Human Rights Act (DCHRA) includes sexual harassment in the workplace that is sufficiently severe and pervasive to affect a term, condition, or privilege of employment and, thereby, to create a hostile work environment based on sex. *Ruffner-Bugg v. Giant Food, Inc.*, 132 WLR 965 (Super. Ct. 2004).

In general.

In addressing employment discrimination claims under the District of Columbia Human

Rights Act (DCHRA) and § 1981, courts look to the jurisprudence surrounding Title VII. *Young v. Covington & Burling LLP*, 846 F.Supp.2d 141, 2012 U.S. Dist. LEXIS 29256 (2012).

District of Columbia Human Rights Act (DCHRA) does not preclude a claim against individual and supervisory employees involved in committing the allegedly discriminatory conduct. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Employee who was reassigned, but had not left service of employer, failed to state claim that employer breached promise to provide lifetime employment. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Former employee did not have a common law cause of action against manager, as required in order to assert negligent hiring, training and supervision action against employer and employer's officers, though jury found for former employee on her sexual harassment/hostile work environment and retaliatory discharge claims, as there was no common law duty to prevent the sexual harassment of an employee before the enactment of the District of Columbia Human Rights Act (DCHRA), and jury exonerated employer and employer's officers on employee's intentional infliction of emotional distress claim. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

Complainants asserting claims of discrimination based on race or other invidious ground have constitutionally protected interest in having their claims considered by appropriate agency at meaningful time and in meaningful manner. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

Inferences.

In order to justify inference of discrimination, for purposes of establishing prima facie case under District of Columbia Human Rights Act (DCHRA) relating to failure to promote, gap between plaintiff's qualifications and lesser qualifications of the person hired by employer must be great enough to be inherently indicative of discrimination. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Instructions.

Jury instruction on retaliation in university employee's action under Title VII and District of Columbia Human Rights Act (DCHRA) against university and supervisor did not leave jury free to conclude that opposing unfair or unwise personnel action could be protected activity; instruction's definition of protected activity, as opposition to "unlawful employment practice," was taken directly from statute. Es-

tes v. Georgetown Univ., 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Jury instruction, on retaliation claim by university employee against university and supervisor under Title VII and District of Columbia Human Rights Act (DCHRA), stating that employee's lawyer's demand letter to university was protected activity, was proper, although it did not include instruction that jury consider that letter's allegations of discrimination were not made reasonably and in good faith; there was no record basis for jury to conclude that letter was unreasonable or that it was presented in bad faith. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Any error in trial court's failure to give nominal damages jury instruction in employment discrimination action was harmless, where the jury awarded employee \$800,000, which directly controverts employer's claim that the jury would have awarded a "trifling amount" had the jury been instructed on nominal damages. *Campbell-Crane & Assocs. v. Stamenkovic*, 44 A.3d 924, 2010 D.C. App. LEXIS 788 (2012).

Jurisdiction.

The most important factor in determining whether a court has subject matter jurisdiction over a claim filed pursuant to the District of Columbia Human Rights Act (DCHRA) is not whether the plaintiff was actually employed in the District of Columbia but whether the alleged discriminatory acts occurred in the District. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Employee's allegations that his former supervisor made racist threats and comments on a regular basis and that those acts of race discrimination largely occurred in the District of Columbia for a period of almost four years established a sufficient connection to the District of Columbia to provide district court with subject matter jurisdiction over employee's District of Columbia Human Rights Act (DCHRA) claim against his former employer and former supervisor, even though complaint alleged that discriminatory actions, such as employee's demotion and termination, occurred in Maryland. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Employee's employment discrimination action, brought in the District of Columbia, under the District of Columbia Human Rights Act (DCHRA), alleging his former employer and his former supervisor harassed him, removed him from his position as foreman, and laid him off because of race, could have been brought in the District of Maryland, and therefore district court for the District of Columbia had discretion to transfer the action to the district of

Maryland; employer had its only office in Maryland, supervisor resided in, and worked out of employer's office in, Maryland, employer made the decision to terminate employee's employment in Maryland, and employee learned of his termination while working on a construction site in Maryland. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

District court would exercise supplemental jurisdiction in ADEA suit over plaintiffs' age discrimination claims asserted under the District of Columbia Human Rights Act (DCHRA), considering that plaintiffs' federal and DCHRA claims shared a common factual basis and would thus not involve vastly different analyses. *Murphy v. PriceWaterhouseCoopers, LLP*, 357 F.Supp.2d 230, 2004 U.S. Dist. LEXIS 27148 (2004), affirmed in part and reversed in part by, remanded by 595 F.3d 370, 389 U.S. App. D.C. 213, 2010 U.S. App. LEXIS 2998, 93 Empl. Prac. Dec. (CCH) P43823, 108 Fair Empl. Prac. Cas. (BNA) 795 (2010) *supra*.

In employment discrimination case, principles of economy, convenience, fairness and comity warranted remand of remaining claim under District of Columbia Human Rights Act (DCHRA) to Superior Court for District of Columbia; federal employment discrimination claims had been withdrawn, claims against Maryland resident originally named as defendant had been dismissed, and only D.C. citizens remained as defendants. *Zuurbier v. Medstar Health, Inc.*, 306 F.Supp.2d 1, 2004 U.S. Dist. LEXIS 3524 (2004).

District court had no basis to exercise pendent jurisdiction over physician's District of Columbia Human Rights Act and tort claims after dismissal of all of physician's federal claims against hospital and its officials. 18 U.S.C. § 1367; D.C. Code 1981, § 1-2512. *Johnson v. Greater Southeast Community Hosp. Corp.*, 903 F. Supp. 140, 1995 U.S. Dist. LEXIS 15475 (1995), vacated by 1996 U.S. Dist. LEXIS 9532, 1996-2 Trade Cas. (CCH) P71511 (D.D.C. June 24, 1996).

Trial court lacked subject matter jurisdiction over former Catholic school principal's race discrimination and retaliation suit against archdiocese under District of Columbia Human Rights Act, where principal's essential role was to further religious training of students and faculty in accordance with teachings and doctrine of Catholic Church, and therefore came within ministerial exception to anti-discrimination laws under Free Exercise Clause. *Pardue v. Ctr. City Consortium Schs. of the Archdiocese of Wash., Inc.*, 875 A.2d 669, 2005 D.C. App. LEXIS 270 (2005), writ of certiorari denied by 546 U.S. 1003, 126 S. Ct. 619, 163 L. Ed. 2d 506, 2005 U.S. LEXIS 8243, 74 U.S.L.W. 3288, 96 Fair Empl. Prac. Cas. (BNA) 1440 (2005).

New trial.

New trial on issues of both liability and

damages was warranted in employment discrimination action due to the improper “send a message” closing argument of employee’s counsel, coupled with the excessive and extravagant award of a million dollars to employee who was earning \$24,000 a year and suffered relatively minor emotional and physical distress as result of her termination; during his closing argument, employee’s counsel focused on employer as a “big bank” and emphasized on how difficult it was to “get through to them,” and jury’s excessive award of damages might reasonably be viewed as reflecting prejudice against employer not only in relation to amount of actual damages, but also with respect to case as a whole. *Scott v. Crestar Fin. Corp.*, 928 A.2d 680, 2007 D.C. App. LEXIS 463 (2007).

Offensive remarks.

African-American employee was not subjected to racially hostile work environment under § 1981 or District of Columbia Human Rights Act (DCHRA) when his manager allegedly used phrase “Nigger, please” when commenting on his lack of effort while working in meat department and employee allegedly overheard another manager use the same derogatory term in addressing his coworker, where employee apparently did not report either incident to management; allegations were not enough to rise to level of severity and pervasiveness required to maintain hostile work environment claim. *DeLoatch v. Harris Teeter, Inc.*, 797 F.Supp.2d 48, 2011 U.S. Dist. LEXIS 75261 (2011).

Employer did not racially discriminate against African-American employee, in violation of District of Columbia Human Rights Act (DCHRA), by allegedly denying employee bonus, stripping employee of managerial responsibilities and constructively discharging him because of race; at most, some high-level executives of employer may have made several insensitive racial comments to employee or in his presence, and despite remarks, neither decisionmaker was more likely than not to have acted with racial animus towards employee when they decided to transfer him to another position. *Harris v. Wackenhut Servs.*, 648 F.Supp.2d 53, 2009 U.S. Dist. LEXIS 77452 (2009), affirmed by 419 Fed. Appx. 1, 2011 U.S. App. LEXIS 9238 (D.C. Cir. 2011).

Supervisor’s alleged use of racial epithets against African-American employee for three days was not sufficiently severe and pervasive to support hostile environment claim under District of Columbia Human Rights Act. *Odeyale v. Aramark Mgmt. Servs. Ltd. P’ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Simple teasing, offhand comments, and isolated incidents, unless extremely serious, will not amount to discriminatory changes in terms

and conditions of employment necessary to support claim under District of Columbia Human Rights Act. *Odeyale v. Aramark Mgmt. Servs. Ltd. P’ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Mere utterance of epithet that engenders offensive feelings in employee does not sufficiently affect conditions of employment to implicate District of Columbia Human Rights Act. *Odeyale v. Aramark Mgmt. Servs. Ltd. P’ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Parties.

Managers and supervisors could not be held individually liable for sex discrimination and retaliation under the District of Columbia Human Rights Act (DCHRA). *Lance v. UMW 1974 Pension Trust*, 355 F.Supp.2d 358, 2005 U.S. Dist. LEXIS 776 (1974), vacated by 400 F. Supp. 2d 29, 2005 U.S. Dist. LEXIS 25164 (D.D.C. 2005).

Employees in their individual capacity did not fall within definition of “employer” under District of Columbia Human Rights Act (DCHRA) and could not be held personally liable for gender discrimination under DCHRA. *Jones v. District of Columbia*, 346 F.Supp.2d 25, 2004 U.S. Dist. LEXIS 23304 (2004), affirmed in part and reversed in part by, remanded by 429 F.3d 276, 368 U.S. App. D.C. 279, 2005 U.S. App. LEXIS 24523, 87 Empl. Prac. Dec. (CCH) P42144, 96 Fair Empl. Prac. Cas. (BNA) 1441 (2005).

Only “employer” may be held liable for violations of Title VII, Equal Pay Act, or District of Columbia Human Rights Act (DCHRA). *Zuurbier v. Medstar Health, Inc.*, 306 F.Supp.2d 1, 2004 U.S. Dist. LEXIS 3524 (2004).

Supervisors, in their individual capacities, may be held liable for their acts of discrimination under the District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Company official who made decision to terminate African employee for violating company policy was not tainted with alleged discriminatory animus of employee’s immediate supervisor, and thus, employee failed to establish a prima facie case of discrimination based on national origin under Human Rights Act, where immediate supervisor was not involved in decision to terminate but only provided decision maker with information about conduct by employee which violated company policy. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass’n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

A low-level supervisor’s knowledge of continuing sexual harassment suffered by an employee at the hands of a co-worker will be

imputed to the employer, and the employer will thereby be subjected to liability under the District of Columbia Human Rights Act (DCHRA), if, due to the actions of the employer, the supervisor either has or is reasonably viewed by the employee as having a duty to report the harassment to higher level officials who have authority to address it. *Ruffner-Bugg v. Giant Food, Inc.*, 132 WLR 965 (Super. Ct. 2004).

Pleadings.

Employee was not entitled to amend his complaint to add Title VII claim and District of Columbia Human Rights Act claim because such amendments would be futile; Title VII claim was futile because employee could not establish prima facie case and his Human Rights Act claim was futile because it was not brought within one year from date that alleged violation occurred. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2544. *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1996 U.S. App. LEXIS 30826 (C.A.D.C. 1996), writ of certiorari denied by 520 U.S. 1197, 117 S. Ct. 1553, 137 L. Ed. 2d 701, 1997 U.S. LEXIS 2690, 65 U.S.L.W. 3727 (1997).

Former employee's failure to state disability discrimination claim under ADA warranted dismissal as well of her claim under District of Columbia Human Rights Act (DCHRA). *Jackson v. Artis*, 565 F.Supp.2d 148, 2008 U.S. Dist. LEXIS 55428 (2008).

Under notice pleading standards, laboratory technologist sufficiently pled claim of religious discrimination under District of Columbia Human Rights Act (DCHRA), even though she did not specifically set forth religious discrimination as one of her causes of action; technologist stated that she "refused to take the Mantoux PPD tuberculosis test on religious and medical grounds," and offered instead to take sputum culture chest x-ray, and letter from her pastor with the "congregation of Universal Wisdom" stated that tuberculosis (TB) tests were forbidden by their religious tenets. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

For gender discrimination claim under District of Columbia Human Rights Act (DCHRA), plaintiff need not establish a prima-facie case in the complaint. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Even had employee properly moved for leave to file surreply on summary judgment in employment discrimination and contract action, proposed surreply would be stricken, as employee's surreply consisted of reiteration of arguments made in her original response to mo-

tion for summary judgment and added nothing new. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Amendment to complaint to clarify employment discrimination claim, which was filed eight months after date specified in scheduling order, would be denied because of undue delay. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Even if employee's motion for leave to amend complaint to clarify gender discrimination claim, under District of Columbia Human Rights Act (DCHRA), was timely, leave would not be granted, as allowing amendment would be futile, where district court had already ruled on summary judgment that employee failed to establish prima facie case of gender discrimination, and nothing in proposed amendment would impact on that analysis. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

Allegations of racial discrimination, brought by employees against railroad and union, were not required to be stricken, even though alleged perpetrators of discrimination were not named in complaint, when allegations served as background for claims of systematic and class wide problem. *Campbell v. AMTRAK*, 163 F.Supp.2d 19, 2001 U.S. Dist. LEXIS 13961 (2001).

Delay in moving to amend complaint to state claim of discrimination based on sexual preference, which was previously known to former employer, did not bar amendment, where no prejudice to former employer was claimed. D.C. Code 1981, §§ 1-2512, 1-2512(a); Fed. Rules Civ. Proc. Rule 15(a), 18 U.S.C. *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Presumptions.

Under District of Columbia law, employment relationship is presumed to be terminable at will by either employer or employee. *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1996 U.S. App. LEXIS 30826 (C.A.D.C. 1996), writ of certiorari denied by 520 U.S. 1197, 117 S. Ct. 1553, 137 L. Ed. 2d 701, 1997 U.S. LEXIS 2690, 65 U.S.L.W. 3727 (1997).

By proving prima-facie case of gender discrimination under District of Columbia Human Rights Act (DCHRA), plaintiff has established legally mandatory, rebuttable presumption, and accordingly, if at trial, the trier of fact believes plaintiff's evidence and if employer is silent in face of presumption, court must enter judgment for plaintiff because no issue of fact remains in case. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

The inference of discrimination that arises when an employer terminates and replaces an otherwise qualified employee in a protected

class is not drawn so readily when the employee is not replaced because the employee's qualifications are not the issue if the job itself is being eliminated. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Employers who knowingly hire workers within protected group seldom will be credible targets for charges of pretextual firing in violation of Human Rights Act. *Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP*, 799 A.2d 381, 2002 D.C. App. LEXIS 296 (2002).

Once presumption of discrimination is raised by employee's prima facie showing, burden shifts to employer to rebut it by articulating some legitimate, nondiscriminatory reason for adverse employment action, and employer can satisfy its burden by producing admissible evidence from which trier of fact can rationally conclude that employment action was not motivated by discriminatory animus; employer need not persuade court that it was actually motivated by the proffered reasons. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Once employer has met its burden of producing legitimate, nondiscriminatory reason for adverse employment action, the presumption of discrimination arising from employee's prima facie showing drops from the case, and from that point onward, employee must show both that employer's stated reason for adverse action is false and that discrimination is the real reason. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Pretext.

District of Columbia's proffered legitimate, non-discriminatory reasons for terminating female high school principal, namely, disregarding superintendent's directive regarding fire code violations and treating public employees discourteously, were not pretext for sex discrimination under Title VII or District of Columbia Human Rights Act (DCHRA). *Musgrove v. Gov't of the Dist. of Columbia*, 775 F.Supp.2d 158, 2011 U.S. Dist. LEXIS 37828 (2011), affirmed by 458 Fed. Appx. 1, 2012 U.S. App. LEXIS 1819 (D.C. Cir. 2012).

Employer's stated reasons for termination of employee for inappropriate conduct, namely his repeated inappropriate comments and conduct toward women in violation of its anti-discrimination and anti-harassment policies, were not pretext for age and gender discrimination, thereby precluding employee's claims brought pursuant to Title VII of Civil Rights Act, the Age Discrimination in Employment Act (ADEA), and the District of Columbia Human Rights Act; when employer's human resources representative became aware of complaints, she conducted immediate and thorough investigation which resulted in disciplinary meeting

and conduct memo placed in employee's file, and termination was not motivated by ongoing, unrelated class action sex discrimination lawsuit against employer. *Aiello v. Novartis Pharms. Corp.*, 746 F.Supp.2d 89, 2010 U.S. Dist. LEXIS 112746 (2010).

Legitimate, nondiscriminatory reasons proffered by employer, a company that owned and operated transmission lines used to convey energy, for terminating black female employee, who worked as director of federal affairs, namely, deficiencies in employee's judgment, listening skills, and management style, were not pretext for race or gender discrimination under District of Columbia Human Rights Act (DCHRA). *Wicks v. Am. Transmission Co. LLC*, 701 F.Supp.2d 38, 2010 U.S. Dist. LEXIS 31603 (2010), affirmed by 2010 U.S. App. LEXIS 20561 (D.C. Cir. Oct. 1, 2010).

Proffered legitimate, performance-based reason for the firing of an employee from her position as an executive assistant to her employer's chief executive officer (CEO), specifically her reluctance to adapt to the CEO's work style even when told an adjustment was necessary, was not a pretext for race discrimination violating the District of Columbia Human Rights Act (DCHRA). *Vatel v. Alliance of Auto. Mfrs.*, 679 F.Supp.2d 15, 2010 U.S. Dist. LEXIS 4266 (2010), affirmed by 627 F.3d 1245, 393 U.S. App. D.C. 305, 2011 U.S. App. LEXIS 855, 94 Empl. Prac. Dec. (CCH) P44079, 111 Fair Empl. Prac. Cas. (BNA) 389 (2011).

African-American legal secretary who claimed she was subjected to race discrimination when law firm refused to reassign her to receptionist position when she returned from medical leave and then terminated her failed to show that law firm's asserted nondiscriminatory reasons for those actions were pretextual, as her employment situation was not nearly identical to that of alleged comparators, four Caucasian legal secretaries and Caucasian receptionist. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

Law firm's asserted reasons for its refusal to reassign African-American legal secretary to receptionist position following her return from disability leave and its subsequent termination of her were legitimate and nondiscriminatory and shifted burden to employee to show they were pretext for race discrimination or retaliation under Title VII or District of Columbia Human Rights Act (DCHRA); firm contended that receptionist position was not available at time her leave expired and she was terminated

because she could no longer perform her job due to her medical condition. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

Employer's proffered reasons for not promoting employee to partner during three partner admission cycles, that employee lacked minimum performance evaluation ratings and that employer had good faith belief that employee did not want to become a partner, were not pretext for age discrimination in violation of ADEA or District of Columbia Human Rights Act (DCHRA); unit to which employee belonged required a higher standard for partnership promotion, considering only "1" rated performers as potential partnership candidates, employee was not consistently rated a "1" performer, only those employees who were sustained "1" rated performers were proposed as partnership candidates from employee's unit, employee had voluntarily relinquished all of his managerial responsibilities as director for an indefinite period, employee had expressed an interest in obtaining an early retirement or working on a part-time basis, and employee only articulated his interest in partnership consideration when his request for early retirement was rejected. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

Employee's lack of minimum performance evaluation ratings and employer's good faith belief that employee did not want to become a partner constituted legitimate, non-discriminatory reasons under ADEA and District of Columbia Human Rights Act (DCHRA) for employer's failure to promote employee to partner during three partner admission cycles. *McFadden v. Ballard, Spahr, Andrews, & Ingersoll, LLP*, 580 F.Supp.2d 99, 2008 U.S. Dist. LEXIS 76665 (2008), affirmed in part and reversed in part by, remanded by 611 F.3d 1, 391 U.S. App. D.C. 371, 2010 U.S. App. LEXIS 13224, 23 Am. Disabilities Cas. (BNA) 518, 109 Fair Empl. Prac. Cas. (BNA) 1057, 16 Wage & Hour Cas. 2d (BNA) 503 (2010).

Restaurant's proffered reason for terminating employee, his clocking out early without permission and starting fight with coworker, was legitimate and nondiscriminatory and was not shown to be pretext for discrimination

based on national origin or religion under Title VII or District of Columbia Human Rights Act (DCHRA); employee acknowledged that both of restaurant's reasons for terminating him were true. *Elhusseini v. Compass Group USA, Inc.*, 578 F.Supp.2d 6, 2008 U.S. Dist. LEXIS 70011 (2008).

Proffered reason for screening official's failure to interview African-American candidate in person and refer him to California for further consideration for position was legitimate and nondiscriminatory and was not shown to be pretext for race discrimination under District of Columbia Human Rights Act (DCHRA); official interviewed that candidate by phone, as she did ultimately successful candidate, and asked each of them to come to another city for in-person interview, but African-American candidate declined because of work responsibilities, by time he attempted to follow up with screening official after her vacation, vacancy had been filled, at no time did he indicate his race, and she stated she did not know he was African-American until she received his charge of discrimination. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

Assuming that recommendation by hospital employee's supervisor, that the employee should be terminated from her employment as registrar in emergency care area's admitting department, was motivated, at least in part, by age discrimination or by retaliation for employee's complaint about age discrimination, hospital's proffered legitimate, nondiscriminatory reason for terminating the employment, i.e., employee's absenteeism, lateness, and abuse of sick leave, was not pretext for age discrimination or retaliation, as would violate the District of Columbia Human Rights Act (DCHRA), in absence of evidence that the actual decisionmaker, i.e., hospital's chief operating officer (COO), was motivated by age discrimination, had a retaliatory motive, or made a decision that was tainted by supervisor's involvement or influence, that documentation of employee's absences, tardiness, or use of sick leave was materially inaccurate, or that hospital refrained from terminating similarly situated younger workers. *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

Reorganization of private university's academic development and continuing education division, to address loss of class enrollment and loss of money, was legitimate nondiscriminatory reason for eliminating the position of male African-American marketing manager, at second part of three-part, burden-shifting test, in action under District of Columbia Human Rights Act (DCHRA), alleging race and gender discrimination. *McFarland v. George Washing-*

ton Univ., 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Protected activity.

Planner subsequently terminated by Office of Planning (OP) did not engage in "protected activity" when she complained about office conditions to OP's director, and thus her termination was not a retaliatory termination in violation of the District of Columbia Human Rights Act (DCHRA), though planner, who was 50 years old, complained about favoritism towards new employees hired by director and hostility towards incumbent employees, and a majority of the new employees were under the age of 40, where the planner did not talk about salary inequities between the new employees and the incumbent employees but only about her own salary inequity, planner did not attribute any salary inequities to differences in age, and planner did not clearly link her complaints about director's unavailability and her immediate supervisor's alleged abusive behavior to age. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To engage in activity that is protected from retaliation under the District of Columbia Human Rights Act (DCHRA), an employee must alert the employer that she is lodging a complaint about allegedly unlawful discriminatory conduct; employer awareness that the employee is engaged in protected activity is thus essential to making out a prima facie case for retaliation. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To constitute "protected activity" for purposes of a retaliation claim under the District of Columbia Human Rights Act (DCHRA), the complaint must allege an employment practice that is prohibited by the DCHRA; it is not enough for an employee to object to favoritism, cronyism, violation of personnel policies, or mistreatment in general, without connecting it to membership in a protected class, for such practices, however repugnant they may be, are outside the purview of the DCHRA. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Purpose.

District of Columbia Human Rights Act prohibits only discrimination based on certain factors, including age. D.C. Code 1981, § 1-2501 et seq. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

The Council of the District of Columbia intended to go above and beyond the protections afforded to employees by Title VII when it enacted the District of Columbia Human Rights Act (DCHRA); though courts cannot create new protected classes not identified by the legislature, courts must read the words of

the DCHRA liberally consistent with the Act's sweeping statement of intent. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

To support a claim for intentional infliction of emotional distress, the conduct alleged must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

"Mental anguish" and "stress" suffered by African-American employee of federal credit union, as a result of credit union's allegedly discriminatory conduct in demoting and terminating her, did not rise to the level of "severe emotional distress" required for claim of intentional infliction of emotional distress. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Primary purpose of Human Rights Act is to eliminate all employment discrimination. D.C. Code 1981, § 1-2512(a)(1). *Strass v. Kaiser Found. Health Plan*, 744 A.2d 1000, 2000 D.C. App. LEXIS 6 (2000).

District of Columbia Human Rights Act was primarily designed to protect from invidious discrimination those persons or groups who have traditionally been subjected to unfair treatment. D.C. Code 1981, § 1-2512. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Although heterosexuals are and should be covered by District of Columbia Human Rights Act (DCHRA), main purpose of sexual orientation provision was to ensure that homosexuals enjoy equal rights previously denied to them. D.C. Code 1981, § 1-2512. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Questions for court.

Whether actions by an employee constitute protected activity or opposition to unlawful practices within the meaning of the District of Columbia Human Rights Act (DCHRA) is a question of law. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

District of Columbia Council's belief, that District had compelling interest in eradicating discrimination on basis of sexual orientation, while not to be lightly disregarded, did not per se establish that such compelling government interest existed; determination of that issue was question of law for courts. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Questions for jury.

In evaluating a hostile work environment claim under the District of Columbia Human

Rights Act (DCHRA), the trier of fact must determine whether offensive conduct is sufficiently severe or pervasive such that it constitutes discrimination. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

In determining whether the locus of charged events rises to the level of hostility under the District of Columbia Human Rights Act (DCHRA), the fact finder must focus on all the circumstances, including the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it interferes with an employee's work performance. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Issue of whether termination of female university employee was causally connected to her complaints of sexually hostile work environment to supervisor was for jury on retaliation claim under Title VII and District of Columbia Human Rights Act (DCHRA). *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Issues of whether university demonstrated that female employee's unequal pay was based on a factor other than sex, and whether employee's expert's assumptions and calculations of back pay should be accepted, were questions for the jury, with regard to employee's unequal pay claim against university under the District of Columbia Human Rights Act (DCHRA). *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

Assuming jury should have been told it was required to decide whether supervisor's harassment of employee was severe or pervasive enough to create a work environment abusive to employees, rather than one marred by merely offensive behavior, or a few isolated instances and genuinely trivial occurrences, retrial with instructions explicitly asking for assessment of supervisor's conduct would have been a pointless act, as jury, having credited employee's claims of retaliation by managers who were willing to close their eyes to supervisor's abuses, found those depredations severe enough to alter conditions of employee's employment. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

In determining whether District of Columbia Human Rights Act (DCHRA) has been violated, trier of fact should consider amount and nature of conduct, plaintiff's response to such conduct, and relationship between harassing party and plaintiff. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Evidence in former employee's suit against employer for violating the District of Columbia Human Rights Act by forbidding him to wear a ponytail at work presented jury question whether employer had a reasonable business purpose for its no-ponytail hairstyle rule, so as to bring rule within "prescribed standards" exception to prohibition of discrimination on basis of personal appearance. D.C. Code 1981, §§ 1-2502(22), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

Whether employer discriminated against employee on basis of personal appearance in violation of the District of Columbia Human Rights Act when employer required employee to cut off ponytail, or else wear a hat at work, or transfer to another work location if he chose to keep ponytail, was question for jury in suit brought against employer by employee. D.C. Code 1981, §§ 1-2502(22), 1-2512. *Turcios v. United States Servs. Indus.*, 680 A.2d 1023, 1996 D.C. App. LEXIS 142 (1996).

While social relationships per se and acts of favoritism may not, by themselves, be meaningful, their frequency and the context in which they occur may take on probative significance as to discriminatory intent; a trier-of-fact is entitled to consider that each successive episode had its predecessor and that the impact of the separate incidents may accumulate to show a sexually discriminatory work environment, or a well-founded reasonable belief that a preferential course of treatment for certain employees, and adverse treatment of others, is the result of sexual orientation discrimination. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Retaliation.

Statements by members of law firm human resources department that firm had too many sick people and should hire younger, healthier people and that African-American secretary, who suffered from several ailments including Graves' disease, fibromyalgia and depression, should "resign and save everybody the trouble," were not evidence of pretext for retaliation for secretary's having requested and taken Family and Medical Leave Act (FMLA) leave, complaining about racial discrimination or requesting reassignment in violation of FMLA, Title VII, Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA); neither statement concerned secretary's exercise or pursuit of a protect right or suggest retaliatory animus. *McFadden v. Ballard Spahr Andrews & Ingersoll, LLP*, 611 F.3d 1, 2010 U.S. App. LEXIS 13224 (C.A.D.C. 2010).

Even if former employee's supervisor deliberately miscoded employee's medical leave form, such action could not have caused lapse in

employee's health benefits that occurred two weeks prior to the alleged miscoding, as required to support employee's retaliation claim under District of Columbia Human Rights Act (DCHRA). *Zelaya v. UNICCO Serv. Co.*, 733 F.Supp.2d 121, 2010 U.S. Dist. LEXIS 85739 (2010).

African-American employee's retaliation claim against employer under District of Columbia Human Rights Act (DCHRA), but not his racial discrimination claim, was based upon adverse employment actions taken against him because of his opposition to allegedly racially discriminatory payments and employment practices of his employer, thereby precluding "opposition to discrimination" premise for discrimination claim; discrimination claim was premised upon adverse employment actions when employee was denied bonus, stripped of managerial responsibilities and constructively discharged because of race, and "incorporation by reference" language in pleadings did not broaden theories upon which discrimination claim rested, but rather pointed to specific allegations and inferences that flowed reasonably from allegations upon which claim relied. *Harris v. Wackenhut Servs.*, 648 F.Supp.2d 53, 2009 U.S. Dist. LEXIS 77452 (2009), affirmed by 419 Fed. Appx. 1, 2011 U.S. App. LEXIS 9238 (D.C. Cir. 2011).

Former university employee failed to make out a prima facie case with respect to his claim that his performance appraisal rating of unsatisfactory was retaliatory, in violation of §§ 1981 and the D.C. Human Rights Act (DCHRA); his supervisor conducted the evaluation about 22 months after a meeting on which he relied as protected activity. *Sullivan v. Catholic Univ. of Am.*, 387 F.Supp.2d 11, 2005 U.S. Dist. LEXIS 19399 (2005), dismissed by 2006 U.S. App. LEXIS 13018 (D.C. Cir. May 18, 2006).

Under the District of Columbia Human Rights Act (DCHRA), it is unlawful for an employer to retaliate against an employee due to his opposition to any practice made unlawful by the DCHRA. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To establish a claim of retaliation under the District of Columbia Human Rights Act (DCHRA), the employee must prove that: (1) he engaged in statutorily protected activity; (2) he was subjected to adverse employment action; and (3) a causal connection exists between the two. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Female employee of corporation operating corrections facility failed to establish that facility retaliated against her for rejecting sexual advances of her supervisor, in violation of District of Columbia Human Rights Act (DCHRA),

by requiring her to pass through x-ray machine despite her pregnant condition and by suspending her after she refused to do so; supervisor had no role in disciplinary decision. *McCain v. CCA of Tenn., Inc.*, 254 F.Supp.2d 115, 2003 U.S. Dist. LEXIS 4662 (2003).

To establish a prima facie case of retaliation, in violation of District of Columbia Human Rights Act (DCHRA), plaintiff must demonstrate: (1) that she engaged in a statutorily protected activity; (2) that the employer took an adverse personnel action; and (3) that a causal connection existed between the two. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Female employees were demoted before employer received letter from employees' attorney, indicating that employees believed they were being subjected to gender discrimination and threatening litigation, and thus demotions could not be retaliatory, in violation of District of Columbia Human Rights Act (DCHRA); manager who demoted employees unequivocally testified that he did not know of employees' complaints of gender discrimination. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Reassigned employee satisfied initial burden of production on claim of retaliation in being removed as pension plan administrator by showing that he had already commenced his age discrimination action against employer at time of his removal, his removal from position representing an adverse personnel action, and employer admitted for limited purposes of motion that they replaced employees as administrator expressly because of pending lawsuit. D.C. Code 1981, § 1-2501 et seq. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Board of trustees' failure to reelect demoted employee to board of trustees did not constitute unlawful retaliation for employee's filing of age discrimination action where, as secretary to board of trustees, employee assumed fiduciary responsibilities of corporate director and thus owed fundamental fiduciary obligation to corporation and its shareholders, requiring him generally to promote interest of corporation and to prevent conflict of interest from arising which conflicted with employee's interests in massive monetary award demanded and his emotional investment in litigation which could impede his loyalty as director. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

Evidence that black woman who was discharged from job as assistant director of union's human rights department was active spokeswoman on behalf of minorities and women within union, that woman was qualified for position she held, that at least one male assistant director was not discharged for conduct

arguably similar to hers, and that her style of advocacy could have been tied to decision to discharge her was sufficient to support finding that discharge was either based on sex discrimination, in retaliation for her antidiscrimination advocacy, or both, in violation of the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Prima facie case of retaliatory discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., requires showing that plaintiff was engaged in statutorily protected activity, that employer took adverse personnel action, and that causal connection existed between the two. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Former employee of automobile dealership failed to establish his claim of post-termination retaliation under the District of Columbia Human Rights Act (DCHRA) where, instead of offering probative evidence of such retaliation, former employee ultimately offered only the speculation that, through deposition cross-examination, it was highly possible that he would adduce evidence that dealership and its owner attempted to interfere with his efforts to obtain comparable employment. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Jury award of \$42,677.50 in punitive damages to university employee on her retaliation claim under District of Columbia Human Rights Act (DCHRA) was not so excessive as to render the jury's award unconstitutional under due process clause, especially when there was no ceiling on the damages available under the versions of the Civil Rights Acts on which DCHRA was based; university's actions in terminating employee were undertaken recklessly, maliciously, wantonly, and/or in reckless disregard to employee's rights under DCHRA, jury awarded employee only \$1 in compensatory damages, and reducing jury's punitive damages award to amount not significantly larger than nine times the actual damages awarded would mean that university would receive sanction of little more than \$10, and \$10 in punitive damages would not deter university from engaging in the kind of retaliatory behavior which the jury found. *Howard Univ. v. Wilkins*, 22 A.3d 774, 2011 D.C. App. LEXIS 367 (2011).

An employee may make out a prima facie case of retaliation, under the District of Columbia Human Rights Act (DCHRA), by demon-

strating that: (1) she engaged in a protected activity by opposing or complaining about employment practices that are unlawful under the DCHRA; (2) her employer took an adverse personnel action against her; and (3) there existed a causal connection between the protected activity and the adverse personnel action. *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

To make out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), a plaintiff must establish (1) that he was engaged in a protected activity or that he opposed practices made unlawful by the DCHRA, (2) that the employer took an adverse personnel action against him, and (3) that a causal connection existed between the two. *Taylor v. D.C. Water & Sewer Auth.*, 957 A.2d 45, 2008 D.C. App. LEXIS 407 (2008).

University hospital employee was not entitled to recover from university and supervisor on retaliation claim following her suspension for unexcused absence from work, even if supervisor's recommendation of suspension was for retaliatory and discriminatory reasons; supervisor had no role in ultimate disciplinary decision, there was no evidence that supervisor influenced decisionmakers by furnishing misinformation, there was no evidence that decisionmakers imposed discipline on a pretext, and given a chance to be heard, employee did not contest accuracy or sufficiency of the data on which proposed suspension was predicated, nor did she claim that supervisor's recommendation was made with ulterior motives. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

Employee established prima facie case of retaliation; the memorandum employee wrote to general manager during his suspension, in which he complained that he was the victim of discrimination, was protected activity, employee's termination constituted adverse personnel action, and the nine-day gap between employee's protected activity and his job termination was sufficient to establish causal connection between the two. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

Under the District of Columbia Human Rights Act (DCHRA), for a prima facie case of retaliation, the plaintiff must establish that: (1) she was engaged in a protected activity, or that she opposed practices made unlawful by the DCHRA; (2) the employer took an adverse personnel action against her; and (3) a causal connection existed between the two. *Nicola v. Washington Times Corp.*, 947 A.2d 1164, 2008 D.C. App. LEXIS 237 (2008).

Not every complaint to an employer garners its author protection from retaliation under the District of Columbia Human Rights Act

(DCHRA). *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

In a retaliation claim, the employee need only prove she had a reasonable good faith belief that the practice she opposed was unlawful under the District of Columbia Human Rights Act (DCHRA), not that it actually violated the Act. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

A prima facie showing of retaliation under the District of Columbia Human Rights Act (DCHRA) gives rise to a presumption that the employer's conduct was unlawful, which the employer may rebut by articulating a legitimate reason for the employment action at issue. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

An employee may make out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA) by demonstrating that: (1) she engaged in a protected activity by opposing or complaining about employment practices that are unlawful under the DCHRA; (2) her employer took an adverse personal action against her; and (3) there existed a causal connection between the protected activity and the adverse personnel action. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Conduct retaliatory in nature is relevant to a hostile work environment claim whether or not it would support a separate statutory retaliation claim, so long as the claimant does not recover under both claims for the same conduct. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

Former employee failed to present prima facie claim of retaliation on the part of employer for not hiring employee for travel services assistant position after her original position was terminated; no evidence was presented that hiring supervisor knew of former employee's equal employment opportunity (EEO) complaint at the time of the failure to hire, and employee acknowledged that she did not know for a fact whether the supervisor knew about the complaint. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

Former employee failed to present reliable evidence supporting prima facie claim that employer's failure to rehire employee for certain jobs after she was discharged was discriminatory and retaliatory; former employee provided no evidence of the required qualifications for those jobs such as educational level or particular skills, who the respective decision makers were, whether the decision makers were aware of the former employee's equal employment opportunity (EEO) complaint, or the race, age, gender or national origin of those who were hired. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

Reduction in university professor's salary after she refused to add a third course to her teaching load was "adverse action," for purposes of professor's Title VII claim that salary reduction was in retaliation for protected activity involving her complaints about supervisor's alleged sexist mentality. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

To establish prima facie case of retaliation, employee had to demonstrate that he was engaged in statutorily protected activity, that employer took adverse action against him, and that there was causal relationship between protected activity and the adverse action. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Causal connection between protected activity and adverse employment action, which is one of requirements for retaliation claim, may be established by showing that employer had knowledge of employee's protected activity and that adverse personnel action took place shortly after that activity. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Employee did not establish that employer terminated him in retaliation for his publishing reports about employer's promotion practices, given that employee failed to show that he was fired shortly after publication of reports and failed to show how they might otherwise be related to his termination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

While proof of mere favoritism is insufficient to establish claim of discrimination under District of Columbia Human Rights Act (DCHRA), plaintiff, to make out claim for retaliation, need only prove she had reasonable good faith belief that practice she opposed was unlawful under DCHRA, not that it actually violated Act. D.C. Code 1981, §§ 1-2512(a), (a)(1), 1-2525. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Review.

Objection by university and its supervisor to instruction on employee's retaliation claim under Title VII and District of Columbia Human Rights Act (DCHRA), which was made after jury had retired to deliberate, was untimely. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Because Equal Employment Opportunity Commission (EEOC) regulations on national origin discrimination have been incorporated into the District of Columbia's regulatory law by the agencies charged with implementing the District of Columbia Human Rights Act (DCHRA), courts owe them deference in interpreting the DCHRA. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

To extent that male African-American employee was attempting to argue that Court of Appeals should for first time recognize African-American men as "distinct protected subgroup" for purposes of establishing prima facie case of employment discrimination under District of Columbia Human Rights Act (DCHRA), argument was undeveloped and therefore was deemed waived; employee did not cite any of the federal cases recognizing "intersectional" or "combination" claims in Title VII litigation, and employee made no attempt to brief the complex question. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

It would not be procedurally unfair for appellate court to affirm trial court's grant of summary judgment to employer, in employee's action under District of Columbia Human Rights Act (DCHRA) alleging race discrimination, on alternative ground that employee failed to establish prima facie case of race discrimination, though trial court granted summary judgment based on statute of limitations; employer had argued in its motion for summary judgment that employee had not established prima facie case of racial discrimination and employee's opposition to that motion had argued that he did establish it, so that employee had full opportunity to create a record on the issue, and briefs submitted on appeal fully debated the existence of prima facie case. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Employer failed to preserve for appellate review claim that trial judge erred in failing to instruct jury on elements of unlawful hostile environment claim under District of Columbia Human Rights Act (DCHRA), as predicate for finding employer liable for negligent supervision of supervisor; employer neither proposed written instruction on tort embodying elements of sexual harassment nor argued orally for one when instructions were discussed, and its objection, which referenced basic element of hostile work place environment claim, was not clearly distinct from its earlier objection to any instruction on negligent supervision once sexual harassment had been removed from case. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Court of Appeals' review of award of compensatory damages in District of Columbia Human Rights Act (DCHRA) suit is limited and highly deferential because trial court has broad discretion to determine appropriate relief under DCHRA. D.C. Code 1981, § 1-2556(b). *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Owner of employment agency waived his right to challenge on appeal, in sex discrimination action, sufficiency of evidence to establish that his company was "employment agency"

within meaning of District of Columbia Human Rights Act (DCHRA) or that his alleged actions were "discriminatory practice" within meaning of DCHRA, though owner had moved for directed verdict at close of plaintiffs' case, where owner did not renew that motion or move for directed verdict at close of all evidence. D.C. Code 1981, §§ 1-2501 to 1-2557; Civil Rule 50. *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Court of Appeals normally defers to Commission on Human Rights, as fact finder, because hearing examiner is in best position to observe witnesses, particularly their demeanor, and thereby assess their believability. *Garzon v. District of Columbia Comm'n Human Rights*, 578 A.2d 1134, 1990 D.C. App. LEXIS 175 (1990).

Although Human Rights Commission, in reviewing hearing examiner's proposed decision on claim of racial and sexual discrimination in employment in violation of District of Columbia Human Rights Act, was not limited to determining whether hearing examiner's findings were supported by substantial evidence, Commission decision contrary to hearing examiner's proposed decision had to be remanded to allow Commission to explain its departure from hearing examiner's findings, especially from those relating to witness credibility. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2551 to 1-2554. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

Provision for judicial review in the human rights law does not expand scope of Court of Appeals jurisdiction to review administrative proceedings beyond that conferred by the Administrative Procedure Act, in that language of provision in the human rights law closely tracks language of the Administrative Procedure Act. D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2554. *Lamont v. Rogers*, 479 A.2d 1274, 1984 D.C. App. LEXIS 459 (1984).

Right to trial by jury.

Former employee suing for employment discrimination under District of Columbia Human Rights Act was entitled to jury trial. D.C. Code 1981, §§ 1-2501 et seq., 1-2512; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq. *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Claim of discrimination under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., calls for jury trial, as such claims seek compensatory damage, a form of legal relief. *Thompson v. International Assn. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Single employer.

A parent's broad general policy statements regarding employment matters are not enough

to show centralized control of labor relations, as would support claim that parent and subsidiary are a single employer for purposes of the District of Columbia Human Rights Act (DCHRA). *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

In order to establish the control element of centralized control of labor relations factor for determining whether parent and subsidiary are a single employer for purposes of the District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate that this control is not merely potential, but actual and active control of day-to-day labor practices. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

To determine if a parent and its subsidiary have common management, as would support claim that parent and subsidiary are a single employer for purposes of the District of Columbia Human Rights Act (DCHRA), the court looks to common directors and officers who exercise control over the daily operations and employment practices of the entities. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

Although the absence or presence of any single factor is not conclusive in determining whether two separate corporate entities can be considered a single employer for purposes of the District of Columbia Human Rights Act (DCHRA), the control over the elements of labor relations is a central concern. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

In order to determine whether two separate corporate entities can be considered a single employer for purposes of the District of Columbia Human Rights Act (DCHRA), courts examine four factors: (1) interrelation of operations; (2) common management; (3) centralized control of labor relations and personnel; and (4) common ownership or financial control. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

In the absence of an unambiguous direct employer-employee relationship, the Court in some circumstances may find District of Columbia Human Rights Act (DCHRA) liability by a parent company for the acts of its subsidiary under the single employer doctrine. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

Parent corporation and its wholly owned subsidiary where employee worked were not a "single employer" within the meaning of the District of Columbia Human Rights Act (DCHRA); although parent conducted regular audits of subsidiary's payroll records, parent and subsidiary shared some common officers, and parent issued a Business Conduct Statement (BCS) to all employees of subsidiary,

there was no commonality between parent's and subsidiary's accounting records, bank accounts, lines of credit, telephone numbers or offices, the human resources department of subsidiary, not that of parent, prepared the payroll for subsidiary employees, the officers in common did not control subsidiary's daily operations, which were managed by team of subsidiary's own unique officers, subsidiary had its own employee handbook, which the BCS did not supercede, and all decisions concerning employee's employment, compensation, promotion and alleged demotion were made by subsidiary's human resources personnel. *Woodland v. Viacom, Inc.*, 569 F.Supp.2d 83, 2008 U.S. Dist. LEXIS 59132 (2008).

Standing.

Chapter 7 debtor had standing to pursue appeal of judgment in favor of debtor's former employer on debtor's retaliation claims under Title VII and the District of Columbia Human Rights Act (DCHRA), where trustee of the bankruptcy estate abandoned the estate's claims in the case while appeal was pending. *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 2010 U.S. App. LEXIS 11032 (C.A.D.C. 2010).

Black fair employment testers, who posed as job applicants and were denied referrals by employment agency, lacked standing to seek injunctive or declaratory relief, absent allegation of likelihood of future violation of testers' rights by agency. *Fair Employment Council v. BMC Mktg. Corp.*, 28 F.3d 1268, 1994 U.S. App. LEXIS 17733 (C.A.D.C. 1994).

President and principal shareholder who sought to recover for emotional injury after witnessing termination of corporation's contract because president was Jewish had no standing to maintain action under civil rights statute giving equal right to make and enforce contracts or under District of Columbia Human Rights Act. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Closely held corporation whose contract was terminated because president and principal shareholder was Jewish had no religious or racial identity and, therefore, could not maintain action under civil rights statute giving equal right to make and enforce contract or under District of Columbia Human Rights Act. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Closely held corporation seeking to redress termination of its contract because its president and principal shareholder was Jewish lacked standing to maintain civil rights action for violation of equal right to make and enforce contracts or District of Columbia Human Rights Act, even if corporation could assume racial or religious identity of president; corporation did not serve president's racial or religious identity and was merely vehicle for president to earn living. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Gersman v. Group Health Ass'n*, 725 F. Supp. 573, 1989 U.S. Dist. LEXIS 13449 (1989), affirmed by 931 F.2d 1565, 289 U.S. App. D.C. 332, 1991 U.S. App. LEXIS 8486, 56 Empl. Prac. Dec. (CCH) P40755 (1991).

Testers engaged by fair employment organization to pose as job seekers, in effort to investigate sex discrimination allegations against employment agency, had standing under District of Columbia Human Rights Act (DCHRA) to bring sex discrimination action against employment agency's owner based on owner's alleged violation of their statutory right to be free from sexual harassment. D.C. Code 1981, § 1-2556(a). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Fair employment organization had standing under District of Columbia Human Rights Act (DCHRA) to bring sex discrimination action against owner of employment agency based on frustration of organization's purpose, where organization had increased its counseling of sex discrimination victims and its educational efforts in order to counteract negative message sent to public by owner's alleged sexual harassment of job seekers. D.C. Code 1981, § 1-2556(a). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Statute of limitations.

Terminated university administrator's § 1981 retaliation claim was timely filed approximately one year after her discharge, where most analogous District of Columbia statute of limitations provided three-year period in which to file. 42 U.S.C. § 1981; D.C. Code 1981, § 12-301(8). *Carney v. American Univ.*, 151 F.3d 1090, 1998 U.S. App. LEXIS 18373 (C.A.D.C. 1998).

Letter informing campus security officer that if he could not return to duty after his FMLA leave ended, university could no longer hold his position, which meant he would be terminated based on his inability to return to duty, constituted clear and unequivocal notice to officer of his termination, and his wrongful termination claims under District of Columbia Human Rights Act (DCHRA) filed one year and one day thereafter were thus untimely. *Leftwich v. Gallaudet University*, 2012 WL 2930725 (2012).

Campus security officer did not state timely claim under District of Columbia Human Rights Act (DCHRA), where he alleged that he was subjected to hostile work environment on basis of race, including racial comments, numerous reprimands, and racial slurs, that his supervisors repeatedly ignored his concerns and instead reprimanded him for being argumentative, insubordinate and unprofessional, and that instead of assisting him in resolving those issues, university repeatedly threatened his job security; only incident that took place within requisite time frame was letter threatening to terminate him unless he returned to work by extended date for his FMLA leave to end, and rather than being "hostile" that communication was professional and amiable, containing no abusive or inappropriate language. *Leftwich v. Gallaudet University*, 2012 WL 2930725 (2012).

Black employee's complaint alleged timely filing of charge of disparate-impact predicated on job-assignment, based on theory that employer's initial job-assignment had disparate impact on African-Americans and that she was subjected to that policy each time her job performance was evaluated, the last evaluation having occurred within governing statutes of limitations periods. *Young v. Covington & Burling LLP*, 736 F.Supp.2d 151, 2010 U.S. Dist. LEXIS 94579 (2010).

District of Columbia Human Rights Act (DCHRA) claims asserted by two restaurant employees accrued no later than dates they were actually or constructively terminated, which was more than one year before action was filed, and because employees alleged they were harassed and threatened based on their religion during their employment, they could not claim for purposes of discovery rule that they were unaware of that discrimination until they were terminated. *Arencibia v. 2401 Rest. Corp.*, 699 F.Supp.2d 318, 2010 U.S. Dist. LEXIS 31369 (2010).

Under District of Columbia law, a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA) is treated as an indivisible whole for purposes of the limitations period, even if an initial portion of that claim accrued outside the limitations period. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Allegations that violations of civil rights began prior to statute of limitations period and continued into period, are actionable, provided claimants were unaware of discriminatory nature of their treatment until they were within limitations period, and unless they knew about discrimination prior to period and were not subjected to any additional discrimination during period. *Campbell v. AMTRAK*, 163

F.Supp.2d 19, 2001 U.S. Dist. LEXIS 13961 (2001).

Female employee's allegation of hostile work environment in violation of District of Columbia Human Rights Act was time barred, where actionable conduct leading to creation of environment occurred over one year before suit was filed; none of incidents relied on by employee that occurred within limitations period was unwelcome conduct of sexual nature resulting in hostile or abusive work environment to continue limitations period, since no reasonable person would feel that such environment was created merely because male supervisor or manager complimented female employee on her appearance or performance of her work, and comment on her golf swing could just as easily have been made to male under same circumstances. D.C. Code 1981, § 1-2544(a). *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

A claim under the District of Columbia Human Rights Act for sexual harassment must be made within one year of date that unwelcome conduct occurred. D.C. Code 1981, § 1-2544(a). *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

Claims under District of Columbia Human Rights Act were not barred by one-year time limit provided by Act, even though initial occurrence of alleged discrimination occurred more than one year prior to filing of action; alleged sex discrimination and retaliation were ongoing behavior, and last incident occurred well within one-year limitation period. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2544. *Ravinskis v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

Filing of sex discrimination claim with District of Columbia Office of Human Rights did not toll one-year statute of limitations claim against union official under District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2511, 1-2512, 1-2544(a), 1-2556. *Weiss v. International Brotherhood of Electrical Workers*, 729 F. Supp. 144, 1990 U.S. Dist. LEXIS 902 (1990).

Most appropriate local cause of action from which to adopt a single limitations period for § 1981 actions brought in District of Columbia is the District's Human Rights Act, which provides for separate civil causes of action for discrimination in employment, real estate transactions, etc., i.e., remedies which substantially overlap or duplicate the remedies provided by § 1981; in setting the one-year limitation period for the District of Columbia act the local legislature necessarily took into account the practicalities that are involved in litigating federal civil rights claims and policies that are analogous to goals of the Civil Rights Acts. 42 U.S.C. § 1981; D.C. Code 1981, §§ 1-2501 to 1-2557. *Pender v. National R. Passenger Corp.*,

625 F. Supp. 252, 1985 U.S. Dist. LEXIS 13890 (1985), reversed by 809 F.2d 926, 258 U.S. App. D.C. 85, 1987 U.S. App. LEXIS 1310, Copy. L. Rep. (CCH) P26054, 1 U.S.P.Q.2d (BNA) 1650 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 3012 (1987), reversed by 809 F.2d 930, 258 U.S. App. D.C. 89, 1987 U.S. App. LEXIS 2960 (1987).

Plaintiff's claims of employment discrimination under section 1981 were identical to those presented under the District of Columbia Human Rights Act [§ 1-2556] and, hence, one-year limitations period under the Act was applicable to section 1981 claim as the most analogous limitations period; however, limitations period on the section 1981 claim was not subject to tolling during pendency of administrative action under the Act and, hence, plaintiff's section 1981 claims were time barred, despite timely filing of the administrative complaint. D.C. Code 1981, § 1-2556; 42 U.S.C. § 1981. *Blake v. American College of Obstetricians & Gynecologists*, 608 F. Supp. 1239, 1985 U.S. Dist. LEXIS 19788 (1985).

One-year time limitation applicable to administrative proceedings under the District of Columbia Human Rights Act [§ 1-2544(a)] is applicable to actions at law as well. D.C. Code 1981, § 1-2544(a). *Blake v. American College of Obstetricians & Gynecologists*, 608 F. Supp. 1239, 1985 U.S. Dist. LEXIS 19788 (1985).

When former employee filed his first complaint alleging violations under District of Columbia Human Rights Act, case ruling that one year limitation period applies to actions commenced under that Act had already been decided; therefore, that one year statute of limitations applied, and as a result, where employee was discharged more than one year before filing initial complaint, his claim under that Act was time barred. D.C. Code 1981, §§ 1-2544, 1-2544(a). *Prouty v. National R. Passenger Corp.*, 572 F. Supp. 200, 1983 U.S. Dist. LEXIS 12963 (1983).

One-year statute of limitations period for former employee's action for discriminatory and retaliatory discharge began to run at the time employee was terminated, where employee testified that her own immediate conclusion after being discharged was that her termination was discriminatory. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

Running of statute of limitations contained in the District of Columbia Human Rights Act for bringing a suit alleging employment discrimination is not stayed during the pendency of an administrative complaint in the Office of Human Rights; proviso stating that an administrative complainant maintains all rights to bring suit, as if no complaint was filed, makes clear that a complainant who files an administrative complaint and then withdraws it in timely fashion is on no better footing than a

complainant who passes up the administrative process and elects to sue. D.C. Code 1981, §§ 1-2544, 1-2556(a). *Anderson v. U.S. Safe Deposit Co.*, 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Stipulations.

For purposes of establishing a *prima facie* case of sexual harassment, the employee may demonstrate that she is a member of a protected class by simple stipulation of the employee's gender. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Substantial evidence test.

The substantial evidence test, used to determine whether an employee has established a *prima facie* case of retaliation under the District of Columbia Human Rights Act (DCHRA), is comparable to that employed in reviewing sufficiency of the evidence to withstand a motion for judgment as a matter of law; the opponent of the motion must be given the benefit of every reasonable inference from the evidence, but not inferences based on guess or speculation. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Summary judgment.

Once employer offered credible evidence of a reason for its promotion decision that was free of sex discrimination, employee could defeat employer's motion for summary judgment as to District of Columbia Human Rights Act claim only by offering direct or indirect evidence of discrimination. D.C. Code 1981, § 1-2512 et seq.; Fed.R.Civ.Proc. Rule 56(c), 18 U.S.C. *Carpenter v. Fannie Mae*, 165 F.3d 69, 1999 U.S. App. LEXIS 784 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 823, 120 S. Ct. 69, 145 L. Ed. 2d 59, 1999 U.S. LEXIS 5079, 68 U.S.L.W. 3223 (1999).

In action under District of Columbia Human Rights Act, employer may offer meritocratic or otherwise high-sounding explanation for adverse employment decision intending to cover up an unsavory reason, but one that is not illegal under antidiscrimination laws, and if employee explodes the phony reason with evidence that simply supports an unsavory but lawful alternative reason, employer is entitled to summary judgment. D.C. Code 1981, § 1-2512 et seq.; Fed.R.Civ.Proc. Rule 56(c), 18 U.S.C. *Carpenter v. Fannie Mae*, 165 F.3d 69, 1999 U.S. App. LEXIS 784 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 823, 120 S. Ct. 69, 145 L. Ed. 2d 59, 1999 U.S. LEXIS 5079, 68 U.S.L.W. 3223 (1999).

Material fact question regarding whether requested motorized cart was reasonable accommodation that would allow employee to work as

sales representative precluded summary judgment on claim of disability discrimination under District of Columbia Human Rights Act. D.C. Code 1981, § 1-2501 et seq.; Fed.Rules Civ.Proc.Rule 56, 18 U.S.C. *Whitbeck v. Vital Signs*, 116 F.3d 588, 1997 U.S. App. LEXIS 14814 (C.A.D.C. 1997).

Genuine issue of material fact, as to whether diminished duties and responsibilities of female environmental engineer of Peruvian origin rose to level of adverse employment action, precluded summary judgment for her employer, the District of Columbia Department of Environment (DDOE), on claims of sex and/or national origin discrimination under Title VII and District of Columbia Human Rights Act (DCHRA) based on her inability to establish *prima facie* case. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Genuine issue of material fact, as to whether reduction of duties and responsibilities of female environmental engineer of Peruvian origin resulted from a discriminatory animus, precluded summary judgment for her employer, the District of Columbia Department of Environment (DDOE), on her claims of sex and/or national origin discrimination under Title VII and District of Columbia Human Rights Act (DCHRA) based on her inability to establish *prima facie* case; employee alleged that her supervisor treated her and white male employee differently, made comments about her "brusque" manner and need to improve her writing skills, and stated that he did not believe someone with a strong accent could be a good manager. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Genuine issue of material fact, as to whether hair salon employee was subject to behavior so intolerable it forced her to leave, precluded summary judgment on constructive discharge claim under District of Columbia Human Rights Act (DCHRA), notwithstanding length of time between alleged assault and resignation and employee's ability to "tolerate" salon owner's alleged behavior for years. *Thong v. Andre Chreky Salon*, 634 F.Supp.2d 40, 2009 U.S. Dist. LEXIS 59463 (2009).

Regardless of whether African-American employee's impending reassignment, which would result in loss of responsibility for supervising a particular staff, was characterized as a lateral transfer or a demotion, genuine issue of material fact existed as to whether it amounted to an adverse employment action, precluding summary judgment in favor of both employee and employer on District of Columbia Human Rights Act claim. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009

U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Genuine issue of material fact as to whether African-American employee was terminated for complaining about his supervisor's use of racial epithets precluded summary judgment on employee's claims against employer under District of Columbia Human Rights Act for wrongful termination and retaliation. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Having granted summary judgment on laboratory technologist's §§ 1981 race discrimination and retaliation claims, court would decline to exercise supplemental jurisdiction over her remaining religious discrimination claim under District of Columbia Human Rights Act (DCHRA), instead remanding it to the Superior Court for the District of Columbia from which case had been removed; there was no diversity jurisdiction and court had dismissed all claims over which it had original jurisdiction, and claim raised novel issue of state law insofar as District of Columbia Court of Appeals had not squarely addressed standard by which such claims of religious discrimination were to be analyzed under the DCHRA. *Lemmons v. Georgetown Univ. Hosp.*, 431 F.Supp.2d 76, 2006 U.S. Dist. LEXIS 25873 (2006), remanded in part by 241 F.R.D. 15, 2007 U.S. Dist. LEXIS 13655, 89 Empl. Prac. Dec. (CCH) P42777, 100 Fair Empl. Prac. Cas. (BNA) 563 (D.D.C. 2007).

Genuine issues of material fact as to whether employer's proffered reason for terminating male restaurant employee who had complained of gender discrimination, that other employees had complained that they had been sexually harassed by the employee, was pretext for retaliation, precluded summary judgment for employer on employee's retaliation claim under the District of Columbia Human Rights Act (DCHRA). *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Genuine issues of material fact as to whether female manager's sexually infused comments to male employee and instance when female co-worker allegedly pulled down her pants in front of employee were sufficiently pervasive and severe precluded summary judgment for employer on male employee's hostile work environment claim under the District of Columbia Human Rights Act (DCHRA). *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Genuine issues of material fact as to whether male restaurant employee's claims of gender discrimination were handled differently than those of female employees precluded summary judgment for employer on employee's claim of gender discrimination under the District of Columbia Human Rights Act (DCHRA). *Regan*

v. Grill Concepts-D.C., Inc., 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To defeat summary judgment on District of Columbia Human Rights Act (DCHRA) gender discrimination claim, the plaintiff must establish, through the combination of its prima facie case, evidence introduced to show that the defendant's explanations were pretextual, and any further evidence of discrimination by the employer, that a reasonable jury could find that the plaintiff suffered the adverse employment action for a discriminatory reason; in certain cases, but not always, a plaintiff's prima facie case, combined with sufficient evidence to find that the employer's asserted justification is false, will be sufficient to defeat summary judgment. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

Genuine issue of material fact existed as to whether male supervisor's words and actions, including using word "bitch" in presence of female employees, calling female employees "chick," visiting strip clubs with other male employees, harassing, taunting, and yelling directed at female, but not male, employees, and undermining of female employees' supervisory authority, created a hostile work environment, precluding summary judgment on female employees' District of Columbia Human Rights Act (DCHRA) gender-based hostile environment claims against employer. *Dickerson v. SecTek, Inc.*, 238 F.Supp.2d 66, 2002 U.S. Dist. LEXIS 21960 (2002).

At pretext stage of summary judgment in gender discrimination action under the District of Columbia Human Rights Act (DCHRA), relevant inquiry is whether there is sufficient evidence from which reasonable fact finder could find in favor of plaintiff, although trier of fact may still consider evidence establishing plaintiff's prima-facie case and inferences properly drawn therefrom on issue of whether defendant's explanation is pretextual. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

In gender discrimination action under District of Columbia Human Rights Act (DCHRA), once employer has met its burden of advancing a nondiscriminatory reason for its actions, focus of proceedings at summary judgment will be on whether jury could infer discrimination from combination of (1) plaintiff's prima-facie case, (2) any evidence plaintiff presents to attack employer's proffered explanation for its actions, and (3) any further evidence of discrimination that may be available to plaintiff, or any contrary evidence that may be available to employer; plaintiff need not present evidence in each category to avoid summary judgment. *Robinson v. Detroit News, Inc.*, 211 F.Supp.2d 101, 2002 U.S. Dist. LEXIS 12852 (2002).

To prove pretext sufficient to withstand a properly supported motion for summary judgment

ment, plaintiff in a discrimination and retaliation action brought under the District of Columbia Human Rights Act (DCHRA) had to produce sufficiently probative evidence to create a genuine issue both that the reason offered for his termination was false, and that discrimination or retaliation was the real reason. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Court will not grant summary judgment in a District of Columbia Human Rights Act (DCHRA) action if the record indicates that the plaintiff presented sufficient evidence to cause a reasonable factfinder to find that the plaintiff had a prima facie case, and the employer's proffered nondiscriminatory reasons for its actions were not credible. D.C. Code 1981, § 1-2512. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

In an action under the District of Columbia Human Rights Act (DCHRA), court cannot grant summary judgment by substituting its own reason for the one offered by the defendants as the basis for terminating employment; court's substitution of its own reason would run directly counter to the shifting allocation of burdens worked out by the Supreme Court in its *McDonnell-Douglas* decision. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Where summary judgment was properly granted to automobile dealership on former employee's claims of discrimination and retaliation under the District of Columbia Human Rights Act (DCHRA), dealership's owner-president could not be held liable for aiding and abetting such alleged conduct. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2526. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Genuine issues of material fact as to whether computer programmer/analyst, who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, was capable of performing her job for law firm with a reasonable accommodation, when she requested a modified work schedule and permission to telecommute after she had been out on medical leave for at least five months, and whether programmer/analyst was requesting a new accommodation based on changed circumstances or was only renewing a

request previously denied, precluded summary judgment for law firm on issues of whether programmer/analyst had a reasonable accommodation claim based on such incident under the District of Columbia Human Rights Act (DCHRA), and whether such claim was barred by DCHRA's one-year statute of limitations. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

As courts are not free to second-guess an employer's business judgment, an employee's mere speculations are insufficient to create a genuine issue of fact regarding an employer's articulated reasons for its adverse employment decisions, as would preclude summary judgment for the employer, in an employment discrimination action under the District of Columbia Human Rights Act (DCHRA). *Hamilton v. Howard Univ.*, 960 A.2d 308, 2008 D.C. App. LEXIS 437 (2008).

Genuine issues of material fact as to whether position of office clerk required proficiency in English and regarding employee's actual proficiency in English at the time he was fired precluded summary judgment on issue of whether employer satisfied its burden of establishing a non-discriminatory reason for employee's termination, in District of Columbia Human Rights Act (DCHRA) discrimination action brought by employee alleging employer discriminated against him based on his Peruvian national origin. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Conclusory statements of employee, who was marketing manager for program in private university's academic development and continuing education division, about his qualifications for program director position that university did not promote him to, were not sufficient to defeat university's motion for summary judgment in action under District of Columbia Human Rights Act (DCHRA), which motion alleged employee failed to show he was qualified for position, as element of prima facie case. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In order to survive motion for summary judgment in employment discrimination action under District of Columbia Human Rights Act (DCHRA), employee must establish prima facie case that employer discriminated against him. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Plaintiff former employee did not receive adequate notice, as was required under civil rule governing summary judgment, before trial court granted summary judgment to defendant former employer as to all counts in plaintiff's action alleging assault and battery, defamation, and violations of federal Equal Pay Act and District of Columbia Human Rights Act (DCHRA), where defendant originally sought

summary judgment as to all counts except assault and battery, trial court denied that motion, defendant then sought reconsideration as to defamation claim, but trial court granted summary judgment to defendant on all claims; before trial court could fairly exceed requested relief and grant summary judgment en toto, plaintiff was entitled to prior notice and opportunity to oppose that course of action. *Tobin v. John Grotta Co.*, 886 A.2d 87, 2005 D.C. App. LEXIS 547 (2005).

To survive a motion for summary judgment on employment discrimination claims under the District of Columbia Human Rights Act (DCHRA), employee must make a prima facie showing of discrimination by a preponderance of the evidence; the prima facie showing, when made, raises a rebuttable presumption that the employer's conduct amounted to unlawful discrimination. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Sworn statement of employee's former co-worker that another worker had asked co-worker if he had seen a job listing in newspaper for employee's old position constituted inadmissible hearsay, and thus, co-worker's affidavit did not furnish evidence that employer, who had not replaced employee, was seeking to fill employee's position, and therefore, the affidavit could not defeat employer's motion for summary judgment on employee's discriminatory termination claim. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Assuming that black married former associate established prima facie case of race and marital status discrimination by law firm in violation of Human Rights Act, associate failed to show that legitimate, nondiscriminatory reasons given by law firm for her termination, including that associate missed deadlines and made work errors, were pretextual, and thus, summary judgment for law firm was properly granted, where law firm's evidence was ample and undisputed and associate failed to show that she was treated differently than similarly situated individual. *Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP*, 799 A.2d 381, 2002 D.C. App. LEXIS 296 (2002).

Courts are justifiably hesitant to throw out Human Rights Act employment discrimination claims on summary judgment, since they almost always involve issues concerning employer's or supervisor's motive or intent. *Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP*, 799 A.2d 381, 2002 D.C. App. LEXIS 296 (2002).

Material issue of fact as to whether employer's reason for adverse action was pretextual precluded grant of summary judgment to employer on employee's racial discrimination claim. *Blount v. Nat'l Ctr. for Tobacco-Free*

Kids, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

Genuine issue of material fact as to whether employee and co-worker who allegedly sexually harassed here were separated after employee reported harassment to department supervisor precluded summary judgment in favor of employer on employee's claim under the District of Columbia Human Rights Act (DCHRA). *Ruffner-Bugg v. Giant Food, Inc.*, 132 WLR 965 (Super. Ct. 2004).

Termination.

District of Columbia (D.C.) employee of Indian descent failed to establish that employer's proffered reason for his termination based on his failure to send filters out on time and his execution of a contract he was not authorized to sign was pretext for race or national origin discrimination in violation of District of Columbia Human Rights Act (DCHRA). *Kumar v. D.C. Water & Sewer Auth.*, 25 A.3d 9, 2011 D.C. App. LEXIS 371 (2011).

Law firm did not "terminate" computer programmer/analyst who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, as required in order for programmer/analyst to maintain an unlawful termination claim against firm under the District of Columbia Human Rights Act (DCHRA), though firm threatened termination if programmer/analyst did not return to work after she had been out on medical leave for five months and firm posted a job opening for her position, where programmer/analyst and firm were in negotiations regarding her return and her request for reasonable accommodations, firm notified programmer/analyst that the job posting was part of a contingency plan if she was unable to return to work, and, after programmer/analyst underwent major surgery and the parties had further negotiations, programmer/analyst returned to firm and worked a 20-hour week. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Tort claims.

To establish a claim for intentional infliction of emotional distress, under District of Columbia law, plaintiff must show that (1) defendant engaged in extreme and outrageous conduct, (2) which intentionally or recklessly, (3) caused plaintiff to experience severe emotional distress. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

Under District of Columbia law, claim for intentional infliction of emotional distress requires the plaintiff to show (1) extreme and outrageous conduct by the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress. *Ben-Kotel v.*

Howard Univ., 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Under District of Columbia law, in an employment context, the proof required to support a claim for intentional infliction of emotional stress is particularly demanding. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Under District of Columbia law, university's alleged pattern of irrational accent-based discrimination against Hispanic job applicants could by itself not raise accent-based rejection of instructor to required level of outrageous conduct to support intentional infliction of emotional distress claim. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Former employee's claim for intentional infliction of emotional distress resulting from stressful work situation created by former employer's alleged acts of employment discrimination were subsumed within claim for employment discrimination in violation of District of Columbia Human Rights Act. D.C. Code 1981, § 1-2512. *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Establishing a prima facie case of intentional infliction of emotional distress requires a showing of (1) extreme and outrageous conduct on the part of the defendants, which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Unequal pay.

Under the District of Columbia Human Rights Act (DCHRA), a plaintiff who alleges that she was unlawfully paid less than a man must establish that the employer pays different wages to employees of opposite sexes for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

The phrase "equal work," in a claim alleging unequal pay under the District of Columbia Human Rights Act (DCHRA), does not require that the jobs be identical, but only that they be substantially equal. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

For purposes of an unequal pay claim under the District of Columbia Human Rights Act (DCHRA), alleging that employer paid different wages to employees of opposite sexes for equal work on jobs requiring equal skill, effort, and responsibility, "skill" includes consideration of such factors as experience, training, education and ability, and "responsibility" involves the degree of accountability required in the performance of the job; the controlling factor is not job title but job content—the actual duties that the respective employees are called upon to perform. *George Washington Univ. v. Violand*, 940 A.2d 965, 2007 D.C. App. LEXIS 842 (2008).

Venue.

In employee's employment discrimination action under the District of Columbia Human Rights Act (DCHRA), venue was proper in the District of Columbia, rather than the District of Maryland; action was originally brought in District of Columbia, and the scales balancing the public and private interests either tilted slightly toward venue in the District of Columbia or were in equipoise, as material events occurred in both districts, the geographic distance between the courthouses was small, making it unlikely that a transfer would materially affect the convenience of the parties or witnesses, or the ability to obtain sources of proof, District of Columbia court might have been more familiar with the law governing employee's DCHRA claim, and each district shared some local interest in deciding the case. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Weight and sufficiency of evidence.

— In general.

Indirect proof of discrimination under District of Columbia Human Rights Act can take the form of evidence from which a jury could find that employer's stated reasons for failing to promote employee are pretextual, and usually such undermining evidence will be enough to get an employee's claim to a jury upon motion for summary judgment. D.C. Code 1981, § 1-2512 et seq.; Fed.R.Civ.Proc. Rule 56(c), 18 U.S.C. *Carpenter v. Fannie Mae*, 165 F.3d 69, 1999 U.S. App. LEXIS 784 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 823, 120 S. Ct. 69, 145 L. Ed. 2d 59, 1999 U.S. LEXIS 5079, 68 U.S.L.W. 3223 (1999).

African-American employee's allegations that he often heard racist jokes and other statements that were patently offensive were not sufficient to establish that such alleged jokes and comments affected the terms, conditions, or privilege of his employment, and therefore they did not rise to the level of adverse employment actions for purposes of District of Columbia Human Rights Act. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S.

Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Black metropolitan police department employee failed to show that District of Columbia's proffered legitimate, nondiscriminatory reasons for selecting white employee instead of her for Acting and Permanent Program Manager positions were pretextual; there was no qualifications gap between them that was indicative of racial discrimination, and no basis in the record upon which to question decisionmaker's assessment of their relative qualifications. *Kennedy v. D.C. Gov't*, 519 F.Supp.2d 50, 2007 U.S. Dist. LEXIS 78203 (2007).

District of Columbia's proffered reasons for selecting white candidate for Acting and Permanent Program Manager positions in Directive Development Unit (DDU) of metropolitan police department were legitimate and nondiscriminatory and shifted burden to black candidate to show those reasons were pretext for race discrimination, in action under §§ 1981 and District of Columbia Human Rights Act (DCHRA); District claimed it followed legitimate procedures under D.C. Personnel Regulations to promote white employee temporarily as Acting Program Manager after black employee requested transfer to Institute of Police Sciences (IPS), and that it selected white employee over black employee for both Acting and Permanent positions because she had more "supervisory experience," had "managed other people in the Army reserves," and submitted more complete application demonstrating her qualifications for position. *Kennedy v. D.C. Gov't*, 519 F.Supp.2d 50, 2007 U.S. Dist. LEXIS 78203 (2007).

University employee's proof of economic injury from her unlawful termination under Title VII and District of Columbia Human Rights Act (DCHRA), which was based on expert's projection of her future line of work, including a possible promotion, was too speculative to support back pay award; employee did not consistently apply for promotions and was not "extolled at every turn" for exceptional work performance, such that promotion was likely. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Former employee's allegations that supervisor's intentional race discrimination in at least four separate incidents created intolerable working conditions which caused her to take unpaid medical and eventually quit were sufficient to show prima facie case of constructive discharge under Title VII, § 1981 and District of Columbia Human Rights Act (DCHRA), where employee described how incident affected her physical, psychological, and emotional state to point that she had to seek therapy. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C. § 2000e-2(a)(1); 42

U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

Finding that former employer and supervisors retaliated against former employee for her complaints regarding gender-based harassment was supported by evidence that employee complained to supervisor about behavior of employee's immediate supervisor, that supervisor wrote employee note stating that she was disappointed to learn of employee's plan to file complaint, that supervisor did not report employee's complaints to employer's office of diversity or discuss them with immediate supervisor, that immediate supervisor was given promotion, and that immediate supervisor designed reorganization, approved by supervisor, which eliminated only one position from department, that belonging to employee. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that gender-based harassment and retaliation engaged in by former employer and supervisors caused former employee physical and emotional distress, so as to support damages award under the District of Columbia Human Rights Act, was supported by evidence that employee suffered from stomach pains and was grinding her teeth and that these symptoms first appeared around time that employee was experiencing problems with supervisor, and by employee's testimony about her strong feelings of humiliation and distress when she was terminated from high-level position and escorted from office by security guard. D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Finding that former employer and supervisors engaged in gender-based harassment, so as to create hostile environment, was supported by former employee's testimony that she was subjected to abusive comments by supervisor on almost daily basis and by witness's corroborating testimony, even though employee testified only about five specific instances of harassment. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 464, 1997 U.S. Dist. LEXIS 14190 (1997).

Employee produced sufficient evidence for the jury to find age discrimination under District of Columbia Human Rights Act (DCHRA), and thus, there was no legal justification for disturbing jury's verdict that employee was victim of age discrimination; although employer offered evidence which, if believed, would allow jury to conclude that employee was terminated because he was not up to the job of

selling, this explanation was not conclusive, employee pointed to his performance evaluations to rebut claim that he was not qualified, and letter which informed employee of his dismissal explicitly stated that his termination was not related to his performance or any other personal factor. *Wash. Convention Ctr. Auth. v. Johnson*, 953 A.2d 1064, 2008 D.C. App. LEXIS 357 (2008).

Employment practices that are merely questionable under Title VII may suffice to establish discrimination under the District of Columbia Human Rights Act (DCHRA). *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Evidence was sufficient to support finding of the Director of Department of Human Rights that Department of Public and Assisted Housing (DPAH) violated the Human Rights Act by discriminating against a 60-year-old United States-born employee on the basis of age and national origin for position as a modernization coordinator, where evidence indicated that employee was qualified for position due to his years of experience as a construction analyst, he had approximately 20 years of construction experience, and his qualifications were not materially different from the African-born applicants selected ahead of him. *D.C. Hous. Auth. v. D.C. Office of Human Rights*, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

Evidence that supervisor told others, including former employee, that his ties with management would shield him from any claim of sexual harassment supported conclusion that employer, at the least, was negligent in not taking action to prevent supervisor's conduct. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Report that someone had complained that employee did not respond in a timely fashion to a request for medical records provided legitimate, nondiscriminatory reason for verbal reprimand, which reason employee failed to prove was pretextual, as was required to maintain age and racial discrimination claims. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Employer supplied a legitimate, nondiscriminatory reason for ensuring that clerk typists were proficient in the use of word processing software when it issued performance evaluation to employee who alleged age and race discrimination; evidence contradicted employee's unsupported assertion that this legitimate proficiency requirement was applied to her retroactively, that she had no notice of the requirement, and that her working knowledge of computers was better than that imputed to her by her performance evaluation. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Supervisor's receiving report that medical files were left unattended, and ensuring integrity of chain of custody of confidential medical records provided legitimate, nondiscriminatory reason for admonishing employee for leaving medical files unattended, which reasons employee failed to rebut or to show that reason was pretext for age or race discrimination. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Employer had legitimate nondiscriminatory reason for issuing verbal reprimand to employee who violated directive issued by supervisor to all employees reporting to her against reporting to work too early, and employee's assertion that she was reporting early for another supervisor's department did not contradict fact that there was a published policy prohibiting all employees from punching in early and that employee violated policy or establish that reason for reprimand was pretext for age and race discrimination. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Employer established legitimate, nondiscriminatory reasons for issuing written reprimand for employee's violation of hospital policies prohibiting unauthorized release of confidential medical records and banning soliciting commendation letters from patients or their families; any action supervisor took to reprimand or discipline employee was legitimately related to business concerns and hospital policy, not grounded in discrimination. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Employer established legitimate, nondiscriminatory reasons for suspending employee based on her attempt to depart and her actual departure from supervisory meeting called to discuss employee's violations of hospital policy by soliciting a letter of commendation from the family member of a patient and by releasing confidential medical records without the required written authorization. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Although employee identified one comparable co-worker, a fellow manager in his division, whose job was not eliminated, this was insufficient to show preferential treatment of similarly situated employees since employee presented no evidence that the co-worker he identified was not a member of his protected class for purposes of employee's sexual orientation discrimination claim against employer, who did not replace employee; since employer did not replace employee, its retention of similarly situated employees was not circumstantial evidence of disparate treatment unless those employees were not in employee's protected class. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Black employee did not establish that his discharge was product of unlawful racial discrimination, rather than his misconduct; employer followed procedures that it had used in the past and, thus, treated employee fairly, stray isolated remark that certain type of mispronunciation represented one of the “fatal flaws of blacks” did not rise to level of direct evidence of discrimination, and employee failed to show that employer’s proffered reason for termination, namely that employee had retaliated against coemployees for participating in investigation of him, was pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

President’s comment that a certain type of mispronunciation represented one of the “fatal flaws of blacks” did not rise to the level of direct evidence of discrimination for purposes of employee’s racial discrimination claim; while president was one of the persons involved in the discipline and possibly termination of employee, the comment was made almost two and a half years before employee was fired and was not specifically directed at him, and there was no legally cognizable connection between the comment and the alleged discriminatory animus which employee claimed resulted in his termination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Not all comments that reflect discriminatory attitude will support inference that illegitimate criterion was motivating factor in adverse employment decision. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Stray remarks in the workplace, statements by nondecisionmakers, and even statements by decisionmakers unrelated to the decisional process itself are not direct evidence of discrimination and, thus, cannot satisfy employee’s burden because they are either too remote in time or too attenuated because they were not directed at employee. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Racial slur uttered by the person in charge of making employee evaluations and rehiring suggestions constitutes direct evidence of discrimination. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Absent causal link between epithets and the conduct complained of by employee, epithets become stray remarks that cannot support employment discrimination verdict. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Statistics alone could not suffice to prove that employer’s motives were more likely to have been discriminatory, given that employer produced evidence that it fired employee because it found that he had sexually harassed his secretary and then retaliated against employees who participated in investigation of harassment charge; employee had to make some additional

showing that employer’s proffered nondiscriminatory reason for adverse employment action was pretextual. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Evidence supported jury’s finding that employer violated Human Rights Act when it discharged employee because of her physical handicap, hypertension, and thus, jury’s verdict should not have been set aside; jury could have determined from the evidence that employer learned of employee’s disability, attempted to force her to quit by failing to fill positions on her staff essential to performance of the job, denied her alternative employment for which she was qualified, and then filled staff positions for her replacement shortly after she left. D.C. Code 1981, § 1-2512(a)(1). *Strass v. Kaiser Found. Health Plan*, 744 A.2d 1000, 2000 D.C. App. LEXIS 6 (2000).

Employer was not entitled to judgment as a matter of law or new trial regarding its liability since substantial evidence supported jury’s verdict, finding employer guilty of sex discrimination under District of Columbia Human Rights Act (DCHRA); employee established prima facie case of sex discrimination, and she demonstrated that employer’s justification for her termination was a pretext designed to conceal employer’s sex discrimination. D.C. Code 1981, § 1-2501 et seq. *UMW v. Moore*, 717 A.2d 332, 1998 D.C. App. LEXIS 164 (1998).

Evidence was sufficient to establish former employee’s age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA); age-related comments were unwelcome, and repetitive age-based slurs directed toward employee were sufficiently pervasive to alter his working conditions. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Affidavits of employee and employer’s counsel and unsworn correspondence from employee’s counsel provided insufficient data for resolving conflicting stories as to whether enforceable settlement agreement existed in sex discrimination claim before Commission on Human Rights, and thus, Commission’s findings that enforceable agreement existed based solely on documentary evidence were, necessarily, arbitrary and capricious. D.C. Code 1981, § 1-1510(a)(3)(A). *Garzon v. District of Columbia Comm’n Human Rights*, 578 A.2d 1134, 1990 D.C. App. LEXIS 175 (1990).

Fact that employer’s witnesses offered consistent testimony of nondiscriminatory reason for abolition of black employee’s position did not necessitate finding by hearing examiner of no discrimination as a matter of District of Columbia law where hearing examiner called witnesses’ credibility into question. *Harris v. Dis-*

trict of Columbia Com. on Human Rights, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

For purpose of determining whether plaintiff was not promoted because of her sex, substantial evidence supported finding that she and male candidate for promotion had comparable qualifications; both had worked for employer for approximately same period, holding similar positions, and they had similar educational backgrounds. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Substantial evidence supported finding that employer's purported reasons for promoting male candidate rather than plaintiff were merely pretext for discrimination on the basis of sex; in addition to comparable qualifications of plaintiff and male candidate, which would not be sufficient in and of itself to undercut employer's nondiscriminatory reasons, evidence also indicated that supervisor of the vacant position had made repeated statements to the effect that he preferred the position to be filled by a male. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Employer articulated legitimate, nondiscriminatory reason for promoting male candidate rather than plaintiff, thus placing burden on plaintiff to establish that those reasons were merely pretext for discrimination on the basis of sex; employer indicated that male candidate was promoted because he was more qualified based on five-point assessment model, and that male candidate was ranked at the top of the list while plaintiff was ranked at the bottom of the list. *United Planning Organization v. District of Columbia Com. on Human Rights*, 530 A.2d 674, 1987 D.C. App. LEXIS 419 (1987).

Conclusion of Commission on Human Rights that employer discriminated against employee on basis of sex was improper where record did not show any direct evidence that employer discriminated intentionally on basis of sex. *Shaw Project Area Committee, Inc. v. District of Columbia Com. on Human Rights*, 500 A.2d 251, 1985 D.C. App. LEXIS 556 (1985).

Conclusion of Commission on Human Rights that employer's reason for denying employee pay for accumulated annual leave was pretextual was not supported by substantial evidence viewing record as a whole; employee failed to show that preparation of reconstructive leave records was motivated by discriminatory reason or that they were unworthy of credence. *Shaw Project Area Committee, Inc. v. District of Columbia Com. on Human Rights*, 500 A.2d 251, 1985 D.C. App. LEXIS 556 (1985).

Claim of university faculty member of unequal pay for equal work was properly dis-

missed, even though faculty member presented evidence that she was paid less than her male predecessor or her male successor, where record did not include evidence of comparative duties and skills of former and successor deans and chairs as contrasted to those of faculty member, there were no comparisons of her education, experience, training and ability with that of other faculty members, deans and department chairs, and there was no evidence of her teaching responsibilities compared to teaching responsibility of her male colleagues. *D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1). Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

From the totality of the evidence presented, the jury had more than sufficient evidence before it from which to draw inferences supporting its conclusion that plaintiff had a reasonable belief as to the sexual orientation of the employees of defendant, including her supervisor, and that they engaged in sexual orientation discrimination with reference to workplace conditions, assignments, remuneration and benefits. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

— Prima facie showing, weight and sufficiency of evidence.

Black Metropolitan Police Department (MPD) employee established prima facie case of racial discrimination in connection with her failure to be selected for Acting or Permanent Program Manager positions, both of which were filled by white employee instead. *Kennedy v. D.C. Gov't*, 519 F.Supp.2d 50, 2007 U.S. Dist. LEXIS 78203 (2007).

Older employee failed to establish prima facie case of age-based disparate treatment through allegations that other employees outside of his age group were given more favorable annual performance ratings despite his more outstanding work record, and that he was denied opportunity to work the same amount of overtime as younger employees, particularly when viewed in conjunction with totality of evidence in the record; employee had not demonstrated that his "satisfactory" annual performance ratings were based upon his age rather than merit, nor had he demonstrated that annual performance ratings for younger employees were based on factors other than merit, and employee was denied overtime based upon existing, age-neutral policies for allocating overtime to employees. *Williams v. Wash. Convention Ctr. Auth.*, 407 F.Supp.2d 4, 2005 U.S. Dist. LEXIS 4138 (2005), appeal dismissed by 481 F.3d 856, 375 U.S. App. D.C. 360, 2007 U.S. App. LEXIS 7971, 89 Empl. Prac. Dec. (CCH) P42775, 100 Fair Empl. Prac. Cas. (BNA) 530, 67 Fed. R. Serv. 3d (Callaghan) 1029 (2007).

Full-time live-in apartment building janitor established prima facie case of discrimination

under District of Columbia Human Rights Act (DCHRA) and §§ 1981 against property management company in connection with his discharge; termination from employment qualified as an adverse employment action, as African of Ethiopian nationality, janitor was a member of a protected class, and he had also sufficiently shown an inference of discrimination in his termination. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Black employee of Ethiopian origin failed to show he suffered an "adverse employment action," as needed to establish prima facie case of discriminatory treatment under District of Columbia Human Rights Act (DCHRA) and §§ 1981 by alleging his supervisor (1) wrongfully gave him disciplinary memoranda, (2) made statements that maligned his Ethiopian nationality and disparaged Ethiopians in general, (3) physically touched him in an aggressive fashion, (4) gave him inconsistent instructions and unreasonable deadlines, and (5) generally was rude toward him. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

To make out prima facie case of discriminatory treatment, employee must establish that (1) he is a member of a protected class, (2) he suffered an adverse employment action, and (3) the unfavorable action gives rise to an inference of discrimination. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Under *McDonnell Douglas*, if employer meets its burden of proffering nondiscriminatory impetus for its actions, then trial or summary judgment proceedings will center on whether jury could infer discrimination from the following mix of evidence: (1) employee's prima facie case, (2) any evidence presented by employee to undercut employer's proffered nondiscriminatory impetus, (3) any other evidence of discrimination available to employee, including independent evidence of employer's discriminatory statements or attitudes, and (4) any contrary evidence available to employer, including evidence that employer has pattern of taking seriously its responsibilities of equal opportunity employment. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Corrections officer employed by security corporation operating corrections facility, who claimed that she was passed over for promotion, in violation of District of Columbia Human Rights Act (DCHRA), due to her refusal to

have sex with supervisor, failed to make necessary showing of pretextual nature of nondiscriminatory reason for promotion denial, that only applicants with managerial experience were being considered; prior experience criterion applied to prior promotions to position in question, and supervisor allegedly soliciting sex was not involved in promotion approval procedure. *McCain v. CCA of Tenn., Inc.*, 254 F.Supp.2d 115, 2003 U.S. Dist. LEXIS 4662 (2003).

Applicant's testimony during case-in-chief, that she was black and 61 years of age at time she applied for vacant housekeeper position at hotel and that she was not selected for position despite being qualified therefor, was legally insufficient for reasonable jury to infer she was discriminated against because of her race or age; despite having adequate opportunity during discovery to garner evidence of discrimination, applicant presented no objective evidence that reason for hotel's decision not to hire her was based on improper motive, or any motive at all. *McCain v. CCA of Tenn., Inc.*, 254 F.Supp.2d 115, 2003 U.S. Dist. LEXIS 4662 (2003).

Unsuccessful Hispanic applicant for part-time teaching position failed to establish prima facie case of national origin discrimination where, after rejecting applicant, university arranged for existing faculty members to teach unassigned classes, rather than seeking additional applicants. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

African American former employee sufficiently alleged that supervisor's discriminatory and disparate treatment of her resulted in racially hostile work environment to establish prima facie case under Title VII, § 1981 and District of Columbia Human Rights Act (DCHRA) by proffering evidence of four incidents in three month period in which supervisor chastised her and mistreated her creating stress on her emotional, psychological and physical well-being which led to her physician's recommendation that she seek psychological evaluation, and by claiming that members outside protected class were not chastised or harassed. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C. § 2000e-2(a)(1); 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Villines v. United Bhd. of Carpenters & Joiners of Am.*, 999 F. Supp. 97, 1998 U.S. Dist. LEXIS 4612 (1998).

Conduct of employee's supervisors in kissing her on head, asking her to work late when no work was to be done on that shift, and showing video of naked woman pulling co-worker's pants down was sufficient for prima facie showing that employer tolerated sexually hostile

and abusive work environment in violation of the District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2501 to 1-2557. *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

Direct proof of discrimination is not required to establish prima facie case of either sex discrimination or retaliatory discrimination, under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq.; plaintiff need only establish facts adequate to permit inference of discriminatory or retaliatory motive. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

A plaintiff's prima facie case, combined with sufficient evidence to find that the employer's asserted justification is false, may permit the trier of fact to conclude that the employer unlawfully discriminated in violation of the Human Rights Act. D.C. Hous. Auth. v. D.C. Office of Human Rights, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

An employee makes a prima facie showing of employment discrimination for purposes of a claim under the Human Rights Act by presenting evidence: (1) that he belongs to a protected class; (2) that he applied and was qualified for a job for which the employer was seeking applicants; (3) that, despite his qualifications, he was rejected; and (4) that, after his rejection, the position remained open and the employer continued to seek applicants from persons of complainant's qualifications. D.C. Hous. Auth. v. D.C. Office of Human Rights, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

African-American former employee failed to show that federal credit union's proffered reason for demoting her, that she had unsatisfactorily performed the duties of credit union manager, was pretext for race or age discrimination in violation of District of Columbia Human Rights Act (DCHRA); employee's poor performance was reflected in both her performance evaluation and examination report of the National Credit Union Administration (NCUA), employee conceded that she could not perform her duties as manager at an acceptable level, and employee merely offered conclusory statements that her former positions were filled by younger, white personnel. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

African-American former employee failed to show that federal credit union's proffered reason for terminating her, that she had lost her bond coverage after using corporate credit card for personal purchases, was pretext for race or age discrimination in violation of District of Columbia Human Rights Act (DCHRA), even though employee claimed that president of credit union's board of directors had made deliberate false representations to bonding com-

pany regarding employee's use of corporate credit card; employee provided no evidence of such misrepresentations, employee conceded that she made personal charges on corporate card, and employee did not provide documentation regarding her personal use of corporate card. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Black married former associate failed to demonstrate that law firm's alleged adverse employment practices and her termination were based on her race and marital status, as required to establish prima facie case of race and marital status discrimination in violation of Human Rights Act; although two white and childless individuals were hired after associate was terminated, employment offer was extended to one of those individuals one year before associate was terminated and offer was made to other individual soon after his resume was received, which was before associate was terminated. *Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP*, 799 A.2d 381, 2002 D.C. App. LEXIS 296 (2002).

Black employee established prima facie case of racial discrimination; employee had excellent record with employer, she was never told, prior to her discharge, that her performance was unsatisfactory, and employee received cool reception to her suggestions that black and other minority celebrities be used in employer's community outreach programs. *Blount v. Nat'l Ctr. for Tobacco-Free Kids*, 775 A.2d 1110, 2001 D.C. App. LEXIS 139 (2001).

To establish prima facie case of discrimination, employee had to demonstrate that he was member of protected class, that he was qualified for job from which he was terminated, that his termination occurred despite his employment qualifications, and that substantial factor in his termination was his membership in the protected class. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

To establish prima facie case of racial discrimination in the decision to terminate him, African-American employee had to come forward with evidence that he was fired from a job for which he was qualified while white employees, similarly situated to him, were not terminated, but, rather, were treated more leniently. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

One could not infer from racial comments heard by coemployees that discrimination was factor in employee's discharge since they were not directed at employee and were not made by decisionmakers in a context related to the decisionmaking process, and even if they did constitute some evidence of discrimination, they did not get employee over the high hurdle of establishing a mixed motives racial discrim-

ination claim. *Hollins v. Fannie Mae*, 760 A.2d 563, 2000 D.C. App. LEXIS 246 (2000).

Former employee failed to establish a prima facie case of racial discrimination in connection with her termination under the Human Rights Act; there was no evidence in record that employee's position was filled with another employee, or that employer accepted applications for position after employee was terminated, and employee offered no persuasive evidence that would support a finding that other similarly situated employees found to have committed gross misconduct were dealt with more favorably than employee. D.C. Code 1981, § 1-2512. *Blackman v. Visiting Nurses Ass'n*, 694 A.2d 865, 1997 D.C. App. LEXIS 102 (1997).

Female employee who was terminated from her position failed to establish prima facie case of sex discrimination; employee was only female professional terminated during prior nine years, four men had been terminated during that period for reasons related to conduct, and employee's supervisor alleged that employee was discharged because of misconduct relating to her verbal attack of two-coemployees, not because she was a woman. D.C. Code 1981, §§ 1-2501 to 1-2512; Civil Rights Act of 1964, §§ 701-703, 42 U.S.C. §§ 2000e to 2000e-2. *O'Donnell v. Associated Gen. Contractors of Am.*, 645 A.2d 1084, 1994 D.C. App. LEXIS 119 (1994).

For purposes of establishing a prima facie case of sexual harassment, more than a few isolated incidents must have occurred and genuinely trivial occurrences will not establish a prima facie case; that the alleged instances of sexual harassment are isolated and trivial must be demonstrated by the defendant as a matter in defense against the plaintiff's prima facie case. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq.,

2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

In determining whether a plaintiff has established a prima facie case of sexual harassment, no specific number of incidents and no specific level of egregiousness can be set and fact that each incident may not be individually actionable is not determinative; instead, trier of fact must consider totality of the circumstances keeping in mind that there are cases in which extreme and outrageous nature of the conduct arises not so much from what is done as from abuse by the defendant of relationship with the plaintiff which gives him power to damage the plaintiff's interest. D.C. Code 1981, §§ 1-2501 et seq., 1-2512(a)(1); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(2), 42 U.S.C. §§ 2000e et seq., 2000e-2(a)(1). *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Female university faculty member, who presented evidence concerning numerous instances of unwanted physical harassment and verbal propositions by male dean and produced evidence of physical problems she suffered as a result of such behavior, stated a cause of action and presented a prima facie case of sexual harassment under the District of Columbia Human Rights Act. D.C. Code 1981, § 1-2512. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Female employee proffered sufficient evidence to support her claim that she was the victim of a hostile work environment based on sex in the District of Columbia within one year of filing her action against employer under the District of Columbia Human Rights Act (DCHRA) and, thus, she could present evidence of the entire course of co-worker's harassing conduct, including evidence of acts committed in Maryland outside the limitations period. *Ruffner-Bugg v. Giant Food, Inc.*, 132 WLR 965 (Super. Ct. 2004).

§ 2-1402.12. Exception.

(a) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system such as retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee seniority system or benefit plan shall excuse the failure to hire any individual.

(b) It shall not be an unlawful discriminatory practice for the District of Columbia to prescribe minimum and maximum age limits for appointment to the police officer and firefighter cadet programs.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 212, 24 DCR 6038; Mar. 9, 1983, D.C. Law 4-172, § 4(a), 29 DCR 5745.)

Prior Codifications. — 1981 Ed., § 1-2513. 1973 Ed., § 6-2222.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 4-172. — Law 4-172 was introduced in Council and assigned Bill No. 4-421, which was referred to the Com-

mittee on the Judiciary and the Committee on Education. The Bill was adopted on first and second readings on October 19, 1982, and November 16, 1982, respectively. Signed by the Mayor on December 8, 1982, it was assigned Act No. 4-254 and transmitted to both Houses of Congress for its review.

§ 2-1402.13. Reports and records.

Every employer, employment agency, and labor organization, subject both to this chapter and to title VII of the Civil Rights Act of 1964, as amended, is to furnish to the Office, all reports that may be required by the Equal Employment Opportunity Commission established under the Civil Rights Act of 1964.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 213, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2514. 1973 Ed., § 6-2223.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

PART C.

HOUSING AND COMMERCIAL SPACE.

§ 2-1402.21. Prohibitions.

(a) *General.* — It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, status as a victim of an intrafamily offense, or place of residence or business of any individual:

(1) To interrupt or terminate, or refuse or fail to initiate or conduct any transaction in real property; or to require different terms for such transaction; or to represent falsely that an interest in real property is not available for transaction;

(2) To include in the terms or conditions of a transaction in real property, any clause, condition or restriction;

(3) To appraise a property, refuse to lend money, guarantee a loan, purchase a loan, accept residential real property as security for a loan, accept a deed of trust or mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property;

(4) To refuse or restrict facilities, services, repairs or improvements for a tenant or lessee;

(5) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a transaction, or proposed transaction, in real property, or financing relating thereto, which notice, statement, or advertisement unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business, of any individual;

(6) To discriminate in any financial transaction involving real property, on account of the location of residence or business (i.e. to “red-line”); or

(7) To limit access to, or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting residential real estate, or to discriminate against any person in terms or conditions of access, membership or participation in any organization, service or facility.

(b) *Subterfuge*. — It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, status as victim of an intrafamily offense, or place of residence or business of any individual.

(c) *Families with children*. —

(1) It shall be an unlawful discriminatory practice to do any of the acts prohibited in subsections (a) and (b) of this section wholly or partially based on the fact that a person has one or more children who reside with that person.

(2) There shall be a rebuttable presumption that an unlawful discriminatory practice has occurred if the person alleging discrimination has 1 or more children who reside with that person and any of the acts prohibited by subsections (a) and (b) of this section are done to maintain residential occupancies more restrictive than the following:

(A) In an efficiency apartment, 2 persons; or

(B) In an apartment with one or more bedrooms, 2 times the number of bedrooms plus one.

(3) Nothing contained in this chapter limits the applicability of any District or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Nothing in this chapter regarding familial status applies to housing for older persons.

(4) For the purposes of this subsection “housing for older persons” means a premises which:

(A) The U.S. Department of Housing and Urban Development determines pursuant to a federal program, is specifically designed and operated to assist older persons;

(B) Is intended for, and solely occupied by persons 62 years of age or older; or

(C) Is intended and operated for occupancy by persons 55 years of age or older, provided that at least 80% of the occupied units are occupied by at

least one person who is 55 years of age or older, and the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required pursuant to this paragraph, and complies with rules issued by the Secretary of the U.S. Department of Housing and Urban Development for verification of occupancy.

(d) *Disability.* —

(1) It shall be an unlawful discriminatory practice in the sale or rental of real estate to deny a dwelling to a buyer or renter or to otherwise make a dwelling unavailable to a buyer or renter because of a disability of:

(A) That buyer or renter; or

(B) Any person residing in or intending to reside in that dwelling after it is sold, rented or made available; or any person associated with that buyer or renter.

(2) It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

(A) That buyer or renter; or

(B) Any person residing in or intending to reside in that dwelling after it is sold, rented or made available; or any person associated with that buyer or renter.

(3) For purposes of this subsection, “unlawful discrimination” includes:

(A) A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modification may be necessary to afford the person full enjoyment of the premises of a dwelling. A landlord, where it is reasonable, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(B) A refusal to make reasonable accommodations in rules, policies, practices, or services, when these accommodations may be necessary to afford any person equal opportunity to use and enjoy a dwelling;

(C) In connection with the design and construction of covered multi-family dwellings for first occupancy after April 20, 1999, a failure to design and construct these dwellings in a manner that:

(i) The public and common use portions of the dwellings are readily accessible to and usable by persons with disabilities; and

(ii) Doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with wheelchairs;

(D) All premises within the dwellings shall contain the following features of adaptive design:

(i) An accessible route into and through the dwelling;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow later installations of grab bars;

(iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space; and

(v) The premises within the dwellings shall have at least 1 building entrance on an accessible route unless it is impracticable because of the terrain or unusual characteristics of the site.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for persons with disabilities suffices to satisfy the requirements of paragraph (3) of this subsection.

(5) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(e) The monetary assistance provided to an owner of a housing accommodation under section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. § 1437f), either directly or through a tenant, shall be considered a source of income under this section.

(f) *Victims of intrafamily offenses.* —

(1) For purposes of this subsection, the term “record” means documentation produced by a law enforcement officer, as defined in § 4-1301.02(14), or a court order pursuant to § 16-1005.

(2) It shall be an unlawful discriminatory practice to do any of the acts prohibited in subsections (a) and (b) of this section wholly or partially based on the fact that a person residing, or intending to reside, in the dwelling is, has a record of being, a victim of an intrafamily offense, as defined in § 16-1001(8).

(3) It shall be an unlawful discriminatory practice to do any of the following additional acts, for purposes of this subsection, wholly or partially based on the fact that a person residing, or intending to reside, in the dwelling is, or has a record of being, a victim of an intrafamily offense, as defined in § 16-1001(8):

(A) Refusing to make a reasonable accommodation in restoring or improving security and safety measures beyond the housing provider’s duty of ordinary care and diligence, the costs of which the housing provider may charge to the tenant, when an accommodation is necessary to ensure the person’s security and safety;

(B) Refusing to permit a person to terminate the lease of the premises early, without penalty, upon notice to the landlord and upon a showing that the person is a victim of an intrafamily offense, pursuant to § 42-3505.07;

(C)(i) Barring or limiting the right of a person to call for police or emergency assistance, which right, for purposes of this subsection, shall not be waivable; or

(ii) Imposing any penalty for calling police or emergency assistance.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 221, 24 DCR 6038; July 26, 1980, D.C. Law 3-80, § 2, 27 DCR 2554; June 28, 1994, D.C. Law 10-129, § 2(d), 41 DCR 2583; Apr. 20, 1999, D.C. Law 12-242, § 2(d), 46 DCR 952; Oct. 1, 2002, D.C. Law 14-189, § 2(c), 49 DCR 6523; Apr. 13, 2005, D.C. Law 15-354, § 8(a), 52 DCR 2638; Mar. 8, 2006, D.C. Law 16-58, § 2(d), 53 DCR 14; Mar. 14, 2007, D.C. Law 16-273, § 3(c), 54 DCR 859; Apr. 24, 2007, D.C. Law 16-305, § 11, 53 DCR 6198; Mar. 25, 2009, D.C. Law 17-368, § 4(a)(2), 56)

Cross references. — Rental housing discrimination prohibited, see § 42-3505.05.

Prior Codifications. — 1981 Ed., § 1-2515. 1973 Ed., § 6-2231.

Effect of amendments. — D.C. Law 14-189, in subssecs. (a) and (b), substituted “actual or perceived: race” for “race”.

D.C. Law 15-354 added subsec. (e).

D.C. Law 16-58, in the lead-in language of subsec. (a), subsec. (a)(5), and subsec. (b), substituted “sexual orientation, gender identity or expression,” for “sexual orientation,”.

D.C. Law 16-273, in subssecs. (a) and (b), inserted “status as a victim of an intrafamily offense” following “source of income”; and added subsec. (f).

D.C. Law 16-305 substituted “persons with disabilities” for “disabled persons”, throughout the section.

D.C. Law 17-368, in subssecs. (f)(2) and (3), substituted “§ 16-1001(8)” for “§ 16-1001(5)”.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 3-80. — Law 3-80 was introduced in Council and assigned

Bill No. 3-74, which was referred to the Committee on Public Safety and Consumer Affairs. The Bill was adopted on first and second readings on April 22, 1980 and May 6, 1980, respectively. Signed by the Mayor on May 23, 1980, it was assigned Act No. 3-191 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

Legislative history of Law 16-273. — For Law 16-273, see notes following § 2-1401.01.

Legislative history of Law 16-305. — For Law 16-305, see notes following § 2-301.07.

Legislative history of Law 17-368. — For Law 17-368, see notes following § 2-1401.02.

CASE NOTES

ANALYSIS

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Burden of proof.

When a plaintiff offers no direct evidence of discrimination, his claim of discrimination under the Fair Housing Act (FHA) and D.C. Human Rights Act is to be examined under the McDonnell-Douglas burden-shifting framework. Civil Rights Act of 1968, § 801 et seq., as amended, 42 U.S.C. § 3601 et seq.; D.C. Code 1981, § 1-2515. *Neithamer v. Brenneman Prop. Servs.*, 81 F.Supp.2d 1, 1999 U.S. Dist. LEXIS 19747 (1999).

To establish intentional discrimination, necessary for claim alleging violation of Human Rights Act (DCHRA) based on a defendant's

alleged refusal to engage in a real estate transaction or to create additional terms in such a transaction for a discriminatory reason, the plaintiff must prove intentional and purposeful conduct based on his membership in a protected class. *Brandywine Apts., LLC v. McCaster*, 964 A.2d 162, 2009 D.C. App. LEXIS 10 (2009).

Construction and application.

It was a facial violation of District of Columbia Human Rights Act for lessor, which refused to accept Section 8 vouchers, to discriminate on the basis of Section 8 renter's source of income. *Feemster v. BSA Ltd. P'ship*, 548 F.3d 1063, 2008 U.S. App. LEXIS 23910 (C.A.D.C. 2008).

District of Columbia Consumer Protection Procedures Act (DCCPA) does not apply to landlord-tenant disputes, and consequently could not be invoked by tenants claiming that landlord was wrongfully refusing to accept vouchers toward payment of rent. *Feemster v. BSA Ltd. P'ship*, 471 F.Supp.2d 87, 2007 U.S. Dist. LEXIS 2707 (2007), affirmed in part and reversed in part by 548 F.3d 1063, 383 U.S. App. D.C. 376, 2008 U.S. App. LEXIS 23910 (2008).

Students are a protected class under the Human Rights Act. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

The Human Rights Act applies to zoning and the activities of the board of zoning adjustment

(BZA). *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

Tax assessment procedures for proposed initiative (Taxpayers' Right to Know Act) did not involve "transaction in real property" within meaning of statutory prohibition against unlawful discrimination in real estate transactions. D.C. Code 1981, §§ 1-2502(30), 1-2515. *Hessey v. Burden*, 615 A.2d 562, 1992 D.C. App. LEXIS 280 (1992), remanded by, appeal dismissed sub nomine *Price v. District of Columbia Bd. of Elections & Ethics*, 645 A.2d 594, 1994 D.C. App. LEXIS 121 (D.C. 1994).

Construction with federal law.

District of Columbia Human Rights Act (DCHRA), prohibiting source of income housing discrimination against federally funded rental assistance voucher holders, did not alter, amend, or conflict with federal statute establishing Housing Choice Voucher Program (HCVP), permitting landlords to accept as many or as few voucher holders as they chose, as required for preemption of DCHRA, under Supremacy Clause, since preemption would affect District's power to regulate matter of local concern, and DCHRA's nondiscrimination requirement neither compelled nor permitted parties to violate any provision of HCVP and advanced HCVP's objective of aiding low-income families in obtaining decent place to live. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Construction with other laws.

Private landlord's refusal to rent apartment to prospective tenant who was federally funded rental assistance voucher holder fell within ambit of District of Columbia Human Rights Act (DCHRA), prohibiting source of income housing discrimination, despite technical amendments correcting error that applied intervening legislation to public, rather than private, housing, since amendments merely clarified DCHRA's long-standing definition of source of income as including federal payments, and intervening District of Columbia Low-Income Housing Preservation and Protection Act (LIHPPA) expressly declared that Housing Choice Voucher Program (HCVP) assistance was source of income under DCHRA. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Discovery.

Fair housing advocacy organization was entitled to limited discovery in order to oppose landlord's pre-discovery summary judgment motion in District of Columbia Human Rights Act (DCHRA) action related to alleged discrimination against prospective tenants on basis of source of income, where organization's allega-

tions were based on specific factual allegations involving organization's testers and specific prospective tenant and proposition that if there was an established policy of discrimination in place when that tenant was turned away, it likely remained in place when organization's charter was reinstated. *Bourbeau v. Jonathan Woodner Co.*, 600 F.Supp.2d 1, 2009 U.S. Dist. LEXIS 15809 (2009).

Discrimination.

Landlord of town home properties did not violate District of Columbia Human Rights Act (DCHRA) by refusing to accept, in payment of rent, vouchers tendered by low income tenants participating in federal rent subsidy program; DCHRA required showing that refusal was based on discrimination against voucher recipients, and refusal in present case was desire to cease offering any town homes as rental property, as prelude to selling them. *Feemster v. BSA Ltd. P'ship*, 471 F.Supp.2d 87, 2007 U.S. Dist. LEXIS 2707 (2007), affirmed in part and reversed in part by, remanded by 548 F.3d 1063, 383 U.S. App. D.C. 376, 2008 U.S. App. LEXIS 23910 (2008).

Elevator manufacturer did not violate District of Columbia Human Rights Act when it refused to enter into contract to maintain elevators it installed in apartment complex in which residents were primarily black, handicapped or elderly, absent showing that manufacturer's refusal to deal was discriminatory, rather than motivated by legitimate business reasons. D.C. Code 1981, §§ 1-2501 et seq., 1-2511, 1-2515, 1-2519. *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 728 F. Supp. 24, 1990 U.S. Dist. LEXIS 322 (1990), affirmed in part and vacated in part by 929 F.2d 714, 289 U.S. App. D.C. 121, 1991 U.S. App. LEXIS 5392 (1991).

Elevator manufacturer's refusal to negotiate contract to service elevators it had installed in apartment complex at which residents were primarily black, handicapped or elderly did not violate Fair Housing Act. Civil Rights Act of 1968, § 804(a, b), (f)(1, 2), as amended, 42 U.S.C. § 3604(a, b), (f)(1, 2). *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 728 F. Supp. 24, 1990 U.S. Dist. LEXIS 322 (1990), affirmed in part and vacated in part by 929 F.2d 714, 289 U.S. App. D.C. 121, 1991 U.S. App. LEXIS 5392 (1991).

Tenant's opening of gay bar on premises in which straight bar was formerly operated did not entitle landlord to vacate stay pending appeal of order permitting landlord to obtain possession of the premises since District of Columbia law prohibited discriminating on basis of sexual orientation and thus operation of gay bar did not violate tenant's agreement to conduct "first class" operation. D.C. Code 1981,

§ 1-2515(a)(4). In re B & F Associates, Inc., 55 B.R. 19, 1985 Bankr. LEXIS 6024 (1985).

Apartment complex's denial of prospective tenant's rental application on account of his common-law wife's criminal background did not violate Human Rights Act (DCHRA) absent evidence of discriminatory animus with respect to tenant's marital status; apartment manager testified that when people applied for an apartment together, whether they were married or not, they were treated as joint applicants, and tenant never made complex aware that he was interested in renting the apartment by himself. *Brandywine Apts., LLC v. McCaster*, 964 A.2d 162, 2009 D.C. App. LEXIS 10 (2009).

Tenant's summary judgment evidence failed to demonstrate that non-retaliatory reasons for landlord's decision not to renew tenant's Section 8 contract were pretextual, and thus evidence was insufficient to demonstrate that landlord's actions constituted source-of-income discrimination under the Human Rights Act. *Borger Mgmt. v. Sindram*, 886 A.2d 52, 2005 D.C. App. LEXIS 536 (2005).

Issue of landlord's alleged source-of-income discrimination, which was raised by tenant as defense to landlord's action for possession on ground of nonpayment of rent, was not procedurally precluded, under collateral estoppel principles, by judgment of the Department of Consumer and Regulatory Affairs (DCRA) on tenant's petition asserting that landlord's termination of its Section 8 participation was unlawful retaliation for tenant's complaint alleging housing code violations; issue was not actually litigated or essential to DCRA's ruling. *Borger Mgmt. v. Sindram*, 886 A.2d 52, 2005 D.C. App. LEXIS 536 (2005).

When the Human Rights Act is read as a whole and in conjunction with the District of Columbia's comprehensive plan and zoning regulations, the Act does not prohibit the board of zoning adjustment (BZA), in imposing conditions on the campus plan, from taking into consideration the number of students who would be housed in residential neighborhoods. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

Conditions imposed by the board of zoning adjustment (BZA) on university's campus plan did not violate prohibition against discrimination in housing on account of matriculation; the zoning regulations have specified for more than eighty years that the number of students was a legitimate consideration, and the most recent comprehensive plan, enacted after the Human Rights Act, repeated the requirement to consider the number of students in neighborhoods off campus. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

The Human Rights Act proscribes discrimination against students by the board of zoning adjustment (BZA) in the exercise of its authority to enforce the zoning regulations. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

The board of zoning adjustment (BZA) is subject to the interdictions of the Human Rights Act, and the Act may be invoked against any application of the zoning regulations which discriminates, in purpose or effect, on grounds prohibited by the Act. *George Washington Univ. v. D.C. Bd. of Zoning Adjustment*, 831 A.2d 921, 2003 D.C. App. LEXIS 553 (2003).

Landlord's discriminatory refusal to provide plumbing services to tenant who had Acquired Immune Deficiency Syndrome (AIDS), unless tenant obtained medical certification that premises were safe, was not justified under business necessity exception of Human Rights Act, even if plumbing service was source of bias and finding another plumber would have been financially difficult; plumbing service was landlord's agent, and landlord did not actually attempt to hire another plumber, or to educate plumbing service about AIDS. D.C. Code 1981, §§ 1-2503(a), 1-2515(a)(4). *Joel Truitt Management v. District of Columbia Comm'n on Human Rights*, 646 A.2d 1007, 1994 D.C. App. LEXIS 140 (1994).

Jurisdiction.

Having found no substantial federal cause of action against elevator manufacturer who refused to service elevators in federally subsidized low-income housing complex, district court lacked solid basis for subject matter jurisdiction over parallel claims for intentional discrimination under "housing and commercial space" provisions of District of Columbia Human Rights Act and should have dismissed those claims for lack of pendent jurisdiction, rather than addressing their merits. D.C. Code 1981, § 1-2515(a)(4, 6). *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 929 F.2d 714, 1991 U.S. App. LEXIS 5392 (C.A.D.C. 1991).

For limited purposes of summary proceedings in landlord and tenant branch of superior court, landlord was not obligated to provide a wheelchair ramp to recreation area including pool, as claimed by tenant; tenant's remedy for any such failure to accommodate her lay in a different proceeding. D.C. Code 1981, §§ 1-2515(a)(4), 6-1706(a); *Landlord and Tenant Rule 5(b)*. *Killingham v. Wilshire Invs. Corp.*, 739 A.2d 804, 1999 D.C. App. LEXIS 225 (1999).

Notice to Mayor.

District of Columbia employees were required to provide notice to Mayor prior to bringing claims based on District of Columbia

Human Rights Act (DCHRA), as those claims were not creations of federal law. *Giardino v. District of Columbia*, 505 F.Supp.2d 117, 2007 U.S. Dist. LEXIS 63201 (2007), dismissed without prejudice by 252 F.R.D. 18, 2008 U.S. Dist. LEXIS 62499 (D.D.C. 2008).

Rental housing.

Tenants' underlying claim that insured violated District of Columbia Human Rights Act (DCHRA), by discriminating against tenants due to insured's refusal to accept enhanced vouchers to pay rent for townhomes pursuant to housing assistance payments (HAP) contract, did not constitute "invasion of the right of private occupancy," within meaning of personal and advertising injury provisions of commercial line policy, precluding insurer's duty to defend insured, under Maryland law as predicted by district court, against tenants' DCHRA claims. *Nautilus Ins. Co. v. BSA Ltd. P'ship*, 602 F.Supp.2d 641, 2009 U.S. Dist. LEXIS 20588 (2009).

Under District of Columbia Human Rights Act (DCHRA), if a landlord charges rents that are too high for the Housing Choice Voucher Program (HCVP), administered by Department of Housing and Urban Development (HUD), assuming landlord does so for non-discriminatory reasons, he is not compelled to lower rents in order to permit voucher holders to rent those units. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Under District of Columbia Human Rights Act (DCHRA), landlords remain free not to rent to federally funded rental assistance voucher holders, provided that landlords do so on other legitimate, non-discriminatory grounds, such as an applicant's rental history or criminal history. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Rental housing providers have obligation to provide full access for disabled persons to a housing accommodation, the violation of which may be a defense to a suit for possession and back rent. D.C. Code 1981, § 6-1706(a). *Killingham v. Wilshire Invs. Corp.*, 739 A.2d 804, 1999 D.C. App. LEXIS 225 (1999).

A court cannot enforce by eviction a private lease which would override statutory provisions that permit a defendant to have dependent children living in her apartment. *Balkissoon v. Williams*, 120 WLR 173 (Super. Ct. 1992).

Review.

Tenant could argue on appeal that landlord's violation of the Human Rights Act afforded an independent ground for affirmance of grant of summary judgment in favor of tenant, in landlord's action for possession on ground of non-

payment of rent, even though tenant failed to cross-appeal on that issue. *Borger Mgmt. v. Sindram*, 886 A.2d 52, 2005 D.C. App. LEXIS 536 (2005).

Standing.

Fair housing advocacy organization's alleged injuries from landlord's refusal to rent to prospective tenants using federally funded rental assistance vouchers, false representations to organization's testers that qualifying apartments were not available, and conduct that diverted scarce resources from organization's central mission were sufficient for Article III standing, in housing discrimination suit against landlord, under District of Columbia Human Rights Act (DCHRA), only for injuries occurring after organization's reinstatement as nonprofit corporation, but not retroactively during period when articles of incorporation were revoked when organization had no legal existence. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Lessee sufficiently alleged a direct injury to have standing to assert a racial discrimination claim under the District of Columbia Human Rights Act (DCHRA) against lessors, though lessee was not the target of the alleged discrimination, where lessor sought to sell its sandwich shop business to two individuals of Korean descent, but lessors refused to provide consent to assignment of retail lease. D.C. Code 1981, §§ 1-2502(21), 1-2515(a, b), 1-2556. *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Statutes of limitation.

That trial court dismissed lessee's claim, against lessors of retail space, of racial discrimination under the District of Columbia Human Rights Act (DCHRA) on standing grounds did not estop lessors from raising the defense of statute of limitations when lessee's claim was reinstated on appeal, where lessors asserted the statute of limitations as an affirmative defense in their answer. D.C. Code 1981, §§ 1-2515(a, b), 1-2556(a). *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Lessor of retail space did not waive defense of statute of limitations, on lessee's claim of racial discrimination under the District of Columbia Human Rights Act (DCHRA), though lessors did not raise the defense in their motion to dismiss for failure to state a claim, where lessors asserted the statute of limitations as an affirmative defense in their answer. D.C. Code 1981, §§ 1-2515(a, b), 1-2556(a). *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Summary judgment.

Material issues of fact, as to whether rejected prospective tenant who was human immunode-

iciency virus (HIV) positive could pay rent, precluded summary judgment that tenant failed to establish prima facie case of disability discrimination in violation of Fair Housing Act and D.C. Human Rights Act. Civil Rights Act of 1968, § 801 et seq., as amended, 42 U.S.C. § 3601 et seq.; D.C. Code 1981, § 1-2515. *Neithamer v. Brenneman Prop. Servs.*, 81 F.Supp.2d 1, 1999 U.S. Dist. LEXIS 19747 (1999).

Material issues of fact as to whether rental agent consistently applied policy of rejecting prospective tenants with poor credit, and whether agent relayed to landlord rent security proposals made by rejected prospective tenant who was human immunodeficiency virus (HIV) positive, precluded summary judgment that poor credit was nondiscriminatory reason for alleged disability discrimination under Fair Housing Act and D.C. Human Rights Act. Civil Rights Act of 1968, § 801 et seq., as amended, 42 U.S.C. § 3601 et seq.; D.C. Code 1981, § 1-2515. *Neithamer v. Brenneman Prop. Servs.*, 81 F.Supp.2d 1, 1999 U.S. Dist. LEXIS 19747 (1999).

Material issues of fact, as to degree to which rental agent promised vigorous legal defense if rejected prospective tenant who was human immunodeficiency virus (HIV) positive brought discrimination suit, precluded summary judgment as to whether agent had intimidated or coerced prospective tenant in violation of Fair Housing Act and D.C. Human Rights Act. Civil Rights Act of 1968, § 801 et seq., as amended, 42 U.S.C. § 3601 et seq.; D.C. Code 1981, § 1-2515. *Neithamer v. Brenneman Prop. Servs.*, 81 F.Supp.2d 1, 1999 U.S. Dist. LEXIS 19747 (1999).

Tort claims.

Lessee established claim for civil conspiracy against lessors, in that its valid claim for racial

discrimination under the District of Columbia Human Rights Act (DCHRA) was sufficient as underlying tortious act, where lessee alleged lessors withheld consent of assignment of retail lease due to proposed assignees' race. D.C. Code 1981, §§ 1-2502(21), 1-2515(a, b), 1-2556. *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Venue.

Venue of lawsuit brought by mother with children against real estate development, marketing, and management company, was proper in District of Columbia, which alleged that company discriminated against her due to her familial status in violation of Fair Housing Act (FHA) and District of Columbia Human Rights Act (DCHRA), where company targeted marketing and advertising efforts to District of Columbia. *Liban v. Churchey Group II, L.L.C.*, 305 F.Supp.2d 136, 2004 U.S. Dist. LEXIS 2776 (2004).

Weight and sufficiency of evidence.

Owner of federally subsidized low-income housing complex did not make prima facie showing of elevator manufacturer's intent to discriminate against residents of complex, virtually all of whom were black, through its refusal to deal with complex owners regarding service of elevators in complex, and manufacturer's proffered reasons for not responding to complex's prior demands for service were legitimate and not pretextual; refusal to deal came after receipt of highly inflammatory letters from complex principal, manufacturer's employees feared working at complex, and manufacturer had had problems collecting payment for services at complex. 42 U.S.C. §§ 1981, 1982. *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 929 F.2d 714, 1991 U.S. App. LEXIS 5392 (C.A.D.C. 1991).

§ 2-1402.22. Blockbusting and steering.

It shall be an unlawful discriminatory practice for any person, whether or not acting for monetary gain, directly or indirectly to engage in the practices of "blockbusting" and "steering", including, but not limited to, the commission of any 1 or more of the following acts:

(1) To promote, induce, influence, or attempt to promote, induce, or influence a transaction in real property through any representation, means or device whatsoever calculated to induce a person to discriminate or to engage in such transaction wholly or partially in response to discrimination, prejudice, fear or unrest adduced by such means, device or representation;

(2) To place a sign, or display any other device, either purporting to offer or tending to lead to the belief that an offer is being made for a transaction in real property that is not in fact available or offered for transaction, or which

purports that any transaction in real property has occurred that in fact has not.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 222, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2516. legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

1973 Ed., § 6-2232.

Legislative history of Law 2-38. — For

§ 2-1402.23. Acts of discrimination by broker or salesperson.

Any real estate broker or real estate salesperson who commits any act of discrimination prohibited under the provisions of this chapter, if such act or the property involved is within the District of Columbia, or if such act occurs outside of the District of Columbia, in a place where such act is prohibited by state or local law, ordinance or regulation, without regard to location of the property, shall be considered by the Real Estate Commission, for the purposes of Chapter 17 of Title 42, as having endangered the public interest; and shall be subject to the procedures set forth in § 2-1403.17.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 223, 24 DCR 6038; Mar. 10, 1983, D.C. Law 4-209, § 35(a)(2), 30 DCR 390.)

Prior Codifications. — 1981 Ed., § 1-2517. 1973 Ed., § 6-2233.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 4-209. — Law 4-209 was introduced in Council and assigned Bill No. 4-230, which was referred to the Com-

mittee on Housing and Economic Development. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-299 and transmitted to both Houses of Congress for its review.

§ 2-1402.24. Exceptions.

(a) Nothing in this chapter is to be construed to apply to the rental or leasing of housing accommodations in a building in which the owner, or members of his family occupy one of the living units and in which there are, or the owner intends that there be, accommodations for not more than:

(1) Four families, and only with respect to a prospective tenant, not related to the owner-occupant, with whom the owner-occupant anticipates the necessity of sharing a kitchen or bathroom; or

(2) Two families living independently of each other.

(b) Nothing contained in the provisions of this chapter shall be deemed to permit any rental or occupancy otherwise prohibited by any statute, or by any regulation previously enacted and not repealed herein.

(c) Nothing in this chapter shall apply to the sale or rental of a single-family home sold or rented by an owner if:

(1) The owner does not own more than 3 single-family homes at any one time; or own any interest in, or has owned or reserved on his behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than 3 single-family homes at any one

time. This exemption shall apply only to one sale within a 24-month period of the sale of any single-family home by a private owner not residing in that home at the time of the sale or who was not the most recent resident of that home prior to the sale.

(2) The home was sold or rented without:

(A) The use of the sales or rental facilities or services of a real estate broker, agent, or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent, or salesperson; and

(B) Without the publication, posting or mailing, after notice, of any advertisement in violation of § 2-1402.21(a)(5).

(Dec. 13, 1977, D.C. Law 2-38, title II, § 224, 24 DCR 6038; Apr. 20, 1999, D.C. Law 12-242, § 2(e), 46 DCR 952.)

Prior Codifications. — 1981 Ed., § 1-2518.
1973 Ed., § 6-2234.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

PART D.

PUBLIC ACCOMMODATIONS.

§ 2-1402.31. Prohibitions.

(a) *General.* — It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual:

(1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations;

(2) To print, circulate, post, or mail, or otherwise cause, directly or indirectly, to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be unlawfully refused, withheld from or denied an individual; or that an individual's patronage of, or presence at, a place of public accommodation is objectional, unwelcome, unacceptable, or undesirable.

(3) A health benefit plan or health insurer shall not establish rules for the eligibility, new or continued, of any individual or adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or family member of the individual, including information about

a request for or receipt of genetic services by an individual or the individual's family member.

(4) A health benefit plan or health insurer shall not request or require an individual or the individual's family member to undergo a genetic test. Nothing in this paragraph shall:

(A) Limit the authority of a health care professional who is providing health care services to an individual to request that the individual or the individual's family member undergo a genetic test;

(B) Limit the authority of a health care professional who is employed by or affiliated with a health benefit plan or a health insurer and who is providing health care services to an individual to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

(C) Authorize or permit a health care professional to require that an individual undergo a genetic test.

(b) *Subterfuge*. — It is further unlawful to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual.

(c) Repealed.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 231, 24 DCR 6038; June 28, 1994, D.C. Law 10-129, § 2(e), 41 DCR 2583; Apr. 20, 1999, D.C. Law 12-242, § 2(f), 46 DCR 952; Apr. 12, 2000, D.C. Law 13-91, § 133, 47 DCR 520; Apr. 19, 2002, D.C. Law 14-114, § 292(c), 49 DCR 1468; Oct. 1, 2002, D.C. Law 14-189, § 2(d), 49 DCR 6523; Apr. 5, 2005, D.C. Law 15-263, § 2(e), 52 DCR 237; Apr. 13, 2005, D.C. Law 15-354, § 8(b), 52 DCR 2638; Mar. 8, 2006, D.C. Law 16-58, § 2(e), 53 DCR 14.)

Cross references. — Licensed places of amusement, admission to, discrimination prohibited, see § 47-2901 et seq.

Prior Codifications. — 1981 Ed., § 1-2519. 1973 Ed., § 6-2241.

Effect of amendments. — D.C. Law 13-91 validated a previously made technical correction in subsec. (a).

D.C. Law 14-114 added subsec. (c).

D.C. Law 14-189, in subsecs. (a) and (b), substituted "actual or perceived: race" for "race".

D.C. Law 15-263, in subsecs. (a) and (b), substituted "genetic information, disability," for "disability,"; and added pars. (3) and (4) of subsec. (a).

D.C. Law 15-354 repealed subsec. (c) which had read as follows: "(c) The monetary assistance provided to an owner of a housing accommodation under section 8 of the United States Housing Act of 1937, approved August 22, 1974

(88 Stat. 662; 42 U.S.C. § 1437f), either directly or through a tenant, shall be considered a source of income under this section."

D.C. Law 16-58, in subsecs. (a) and (b), substituted "sexual orientation, gender identity or expression," for "sexual orientation,".

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

Legislative history of Law 14-114. — Law 14-114, the "Housing Act of 2002", was intro-

duced in Council and assigned Bill No. 14-183, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 2001, and January 8, 2002, respectively. Signed by the Mayor on February 6, 2002, it was assigned Act No. 14-267 and transmitted to both Houses of Congress for its review. D.C. Law 14-114 became effective on April 19, 2002.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 15-263. — For Law 15-263, see notes following § 2-1401.01.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

CASE NOTES

ANALYSIS

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Age.

Section of equal services law barring discrimination in restaurants does not mandate non-discriminatory treatment based on age. D.C. Code § 47-2902(a). *D. T. Corp. v. District of Columbia Alcoholic Beverage Control Board*, 407 A.2d 707, 1979 D.C. App. LEXIS 475 (1979).

Section of human rights law prohibiting age discrimination in public accommodations does not apply to limitations on minors' access to liquor establishments. D.C. Code §§ 25-103(n), 25-121. *D. T. Corp. v. District of Columbia Alcoholic Beverage Control Board*, 407 A.2d 707, 1979 D.C. App. LEXIS 475 (1979).

Burden of proof.

Once a presumption of discrimination is raised under the District of Columbia Human Rights Act (DCHRA) by employee's prima facie case, the burden shifts to the employer to rebut it by articulating some legitimate, nondiscriminatory reasons for the employment action. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Under burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), once employer articulates legitimate, nondiscriminatory reasons for the employment action, the burden shifts back to the employee to prove, by a preponderance of the evidence, that the employer's stated justification for its action was not its true reason but was in fact merely a

pretext to disguise discriminatory practice. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Construction and application.

The City Council consciously chose not to make the language of the Human Rights Act applicable to regulation of the marital relationship. *Dean v. District of Columbia*, 120 WLR 769 (Super. Ct. 1991).

Contract.

Persons who contracted to host New Year's Eve party attended overwhelmingly by patrons of Asian descent stated race discrimination claims under District of Columbia Human Rights Act (DCHRA) and federal civil rights statutes against hotel where party was held, despite hotel's claims they failed to allege that other hotel guests who were not members of a protected class were treated differently and that they had no standing to assert claim for discrimination based on violation of rights of their guests; hosts provided a short and plain statement of their claim that hotel discriminated against them, along with their guests, in place of public accommodation and impeded their ability to enforce their contract with hotel, all because of their race, and thereby gave hotel fair notice of claim and grounds upon which it rested. *Park v. Hyatt Corp.*, 436 F.Supp.2d 60, 2006 U.S. Dist. LEXIS 44727 (2006).

Elevator manufacturer did not violate District of Columbia Human Rights Act when it refused to enter into contract to maintain elevators it installed in apartment complex in which residents were primarily black, handicapped or elderly, absent showing that manufacturer's refusal to deal was discriminatory, rather than motivated by legitimate business reasons. D.C. Code 1981, §§ 1-2501 et seq., 1-2511, 1-2515, 1-2519. *Clifton Terrace Assoc., Ltd. v. United Technologies Corp.*, 728 F. Supp. 24, 1990 U.S. Dist. LEXIS 322 (1990), affirmed in part and vacated in part by 929 F.2d 714, 289 U.S. App. D.C. 121, 1991 U.S. App. LEXIS 5392 (1991).

Damages.

Persons who contracted to host New Year's Eve party attended overwhelmingly by patrons

of Asian descent stated claim against hotel where party was held for intentional infliction of emotional distress; hosts alleged repeated acts of discrimination and racially motivated sabotage by hotel over entire period contractual obligations were executed, in form of intentionally diminishing their drink sales by undercutting prices of drinks sold by hosts to attendees, failing to provide adequate food, cutting short time of planned buffet, and locking hosts and attendees out of their rooms. *Park v. Hyatt Corp.*, 436 F.Supp.2d 60, 2006 U.S. Dist. LEXIS 44727 (2006).

Genuine issues of material fact, regarding whether cab company acted out of ill will or willfully disregarded prospective taxi patrons' rights by allegedly failing to provide adequate service to predominantly African-American quadrant of city, precluded summary judgment on patrons' claim against company for punitive damages under District of Columbia Human Rights Act (DCHRA) and District of Columbia tort law. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Award of \$10,000 in compensatory damages was appropriate under Rehabilitation Act and D.C. Human Rights Act (DCHRA) for deaf patient's humiliation, embarrassment, and emotional pain and suffering caused by obstetrician's refusal to provide her prenatal services. Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794; D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Under D.C. Human Rights Act (DCHRA), plaintiff may recover compensatory damages for humiliation, embarrassment, and emotional pain and suffering. D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Disability.

Evidence would not allow Commission of Human Rights to find that "aggravating factors" were involved or that punitive damages were warranted with respect to hospital's handicap discrimination based upon patient's denial of access to psychiatric unit due to hospital's perception of Human Immuno-deficiency Virus (HIV) infection. D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Substantial evidence would allow finding by Commission of Human Rights that homosexual hospital patient was not entitled to damage award for pain and suffering due to handicap discrimination resulting from hospital's exclusion of patient from psychiatric unit based upon perception of Human Immuno-deficiency Virus (HIV) infection, where evidence did not link patient's psychological and mental problems to his exclusion from psychiatric unit, but, rather,

evidence showed that patient had made previous suicide attempts, had been involved in counseling since early age, had continuing drug and alcohol problems, and had suffered from depression and mood swings prior to his hospitalization. D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Commission of Human Rights could reasonably conclude that hospital considered homosexual patient's sexual orientation merely as medical risk factor, not as discriminatory basis for actions taken with respect to patient, and that hospital's decision to order "blood and body fluid precautions" was based upon patient's medical history and not upon his sexual orientation in violation of Human Rights Act; physician testified that he implemented precautions based upon patient's medical history, which included sexually transmitted diseases and hepatitis, and experts in field of epidemiology testified that precautions were warranted based upon patient's medical history. D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Evidence supported conclusion of Commission of Human Rights that homosexual patient's exclusion from psychiatric unit was not based on his sexual orientation in violation of Human Rights Act, but, rather, on combination of factors in his medical history that led hospital to perceive patient to be infected with Human Immuno-deficiency Virus (HIV). D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Denial of homosexual patient's access to hospital's psychiatric unit was based upon hospital's perception of Human Immuno-deficiency Virus (HIV) infection in violation of Human Rights Act, where hospital made no claim or showing of business necessity for denial of access. D.C. Code 1981, §§ 1-2503(a), 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Dress codes.

Statutory requirement that a restaurant must serve any quiet or orderly person does not prevent a restaurant from having reasonable requirements as to dress of its customers, such as a requirement that all male customers wear coats and ties or that all customers wear shoes. D.C. Code §§ 22-3102, 47-2902. *Feldt v. Marriott Corp.*, 322 A.2d 913, 1974 D.C. App. LEXIS 250 (1974).

Restaurant dress policies which require men to wear jackets while not imposing the same requirement on women, do not constitute ille-

gal discrimination based on sex. *Karson v. Prime Rib, Inc.*, 111 WLR 1677 (Super. Ct.).

Elements.

Cab company that was sued by prospective taxi patrons, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, failed to present any evidence that its practices constituted valid "business necessity," as required to rebut patrons' prima facie case of race-based discrimination under District of Columbia Human Rights Act (DCHRA). *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Prospective taxi patrons who brought action against cab company, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, demonstrated that company's business practice of picking up passengers from quadrant at lower rate than it did from remainder of city bore disproportionately on African-Americans, as required for prima facie case of race-based discrimination under District of Columbia Human Rights Act (DCHRA); uncontroverted evidence showed that pickup rate for all portions of city other than quadrant at issue was 2.6 times larger than pickup rate for quadrant, and that African-Americans constituted only 60% of city's population, but 96% of quadrant's population. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Prospective taxi patrons who brought action against cab company, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, presented uncontroverted evidence demonstrating that company was significantly less likely to pick up person requesting service from quadrant than from another part of the city, as required for prima facie case of residence-based discrimination under District of Columbia Human Rights Act (DCHRA). *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

In determining whether defendant acted for discriminatory reason under D.C. Human Rights Act (DCHRA), plaintiff must first prove by preponderance of evidence a prima facie case of discrimination, burden then shifts to defendant to show legitimate, nondiscriminatory reason for his actions, and finally plaintiff must show that defendant's proffered reason was pretext for discrimination. D.C. Code 1981, § 1-2519. *Sumes v. Andres*, 938 F. Supp. 9, 1996 U.S. Dist. LEXIS 17346 (1996).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the

Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Political affiliation.

Human Rights Act's protection against discrimination based on political affiliation is not limited to government employees. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Private social club's expulsion of member who was affiliated with an organization that distributed "hate music" did not constitute discrimination based on political affiliation, for purposes of provision of Human Rights Act prohibiting places of public accommodation from discriminating based on political affiliation, in absence of evidence that the organization was a "political party" under any ordinary sense and with the meaning commonly attributed to that term. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Public accommodations defined.

A doctor's office constitutes a "place of public accommodation" within meaning of Americans with Disabilities Act (ADA). Americans with Disabilities Act of 1990, § 301(7)(F), 42 U.S.C. § 12181(7)(F). *Patient v. Corbin*, 37 F.Supp.2d 433, 1998 U.S. Dist. LEXIS 15568 (1998).

Movie theater leased by its operator from agency in executive branch of federal government was "place of public accommodation" within meaning of antidiscrimination provisions of ADA. Americans with Disabilities Act of 1990, §§ 301(7)(C), 302(a), 42 U.S.C. §§ 12181(7)(C), 12182(a); 28 C.F.R. §§ 36.104, 36.201(a). *Fiedler v. American Multi-Cinema*, 871 F. Supp. 35, 1994 U.S. Dist. LEXIS 18186 (1994).

Newspaper column is not "public accommodation" within meaning of Americans with Disabilities Act (ADA) barring disability discrimination in public accommodations. Americans with Disabilities Act of 1980, §§ 301, 302, 302(a), 12 U.S.C. §§ 12181, 12182, 12182(a). *Treanor v. Washington Post Co.*, 826 F. Supp. 568, 1993 U.S. Dist. LEXIS 10389 (1993).

Location of a lunch counter which served and offered to serve the general public, including interstate travelers, on golf course premises, brought the entire golf course within public accommodations provisions of the Civil Rights Act. Civil Rights Act of 1964, § 201(b)(4)(A)(ii), 42 U.S.C. § 2000a(b)(4)(A)(ii). *Evans v. Laurel Links, Inc.*, 261 F. Supp. 474, 1966 U.S. Dist. LEXIS 7568 (1966).

A golf course was a "place of exhibition or entertainment" within public accommodations provisions of the Civil Rights Act, where a golf team from the District of Columbia, on a regu-

lar annual basis, played on the course which was located in an adjoining state. Civil Rights Act of 1964, § 201(b)(3), (c), 42 U.S.C. § 2000a(b)(3), (c). *Evans v. Laurel Links, Inc.*, 261 F. Supp. 474, 1966 U.S. Dist. LEXIS 7568 (1966).

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associated members but which did not operate from any particular place was not "place of public accommodation" under statute prohibiting sex discrimination in places of public accommodation. D.C. Code 1978 Supp. §§ 6-2202(x), 6-2241(a)(1). *United States Jaycees v. Bloomfield*, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

A bowling alley was a place of "public amusement" within act of corporation of city of Washington prohibiting persons who have obtained license for purpose of giving a lecture, concert, exhibition, circus performance, theatrical performance, or for conducting place of public amusement of any kind from making any distinction on account of race or color. D.C. Code 1951, § 1-107. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

Respondeat Superior.

In civil rights action brought by prospective taxi patrons against cab company, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, company was estopped as matter of law from denying vicarious liability as to cab drivers bearing company's emblem, and thus company would be liable under District of Columbia law for any tortious or discriminatory acts committed by drivers; patrons alleged that company's dispatchers and managers, as well as drivers, engaged in conduct that contributed to lower pickup rate for African-American quadrant. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Where plaintiff is taxicab passenger, cab companies are not only liable under District of Columbia law for torts committed by cab driv-

ers who bear cab company's emblem, but they are also liable for any acts of discrimination committed by drivers. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Under the law of the District of Columbia, taxicab company was estopped from denying an employer-employee relationship between it and taxi driver who allegedly discriminated on the basis of race against prospective passenger, where, at the time of the incident, the taxicab bore the trade name and color scheme of the taxicab company. *Greene v. Amritsar Auto Servs. Co., LLC*, 206 F.Supp.2d 4, 2002 U.S. Dist. LEXIS 10896 (2002).

Source of income.

A claim that a place of public accommodation has violated the Human Rights Act can be based solely on "source of income" discrimination, and "source of income" need not be tied to some other protected class under the Act. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Private social club's proffered reason for expelling member, i.e., his use of club's facilities to conduct business with persons who publicly expounded racist and anti-Semitic views, did not constitute discrimination based on source of income, for purposes of provision of Human Rights Act prohibiting places of public accommodation from discriminating based on source of income. *Blodgett v. Univ. Club*, 930 A.2d 210, 2007 D.C. App. LEXIS 481 (2007).

Summary judgment.

Genuine issues of material fact, regarding whether potential violations of taxi patrons' rights under District of Columbia Human Rights Act (DCHRA) and §§ 1981, stemming from alleged failure of cab company to provide adequate service to predominantly African-American quadrant of city, could have been attributable to incompetent behavior on part of company's employees precluded summary judgment on patrons' negligent supervision claim against company under District of Columbia law. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

PART E.

EDUCATIONAL INSTITUTIONS.

§ 2-1402.41. Prohibitions.

It is an unlawful discriminatory practice, subject to the exemptions in § 2-1401.03(b), for an educational institution:

(1) To deny, restrict, or to abridge or condition the use of, or access to, any of its facilities, services, programs, or benefits of any program or activity to any

person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, political affiliation, source of income, or disability of any individual; or

(2) To make or use a written or oral inquiry, or form of application for admission, that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion, or national origin of an applicant for admission, except as permitted by regulations of the Office.

(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition —

(A) the use of any fund, service, facility, or benefit; or

(B) the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 241, 24 DCR 6038; Nov. 21, 1989, 103 Stat. 1284, Pub. L. 101-168, § 141(b); June 28, 1994, D.C. Law 10-129, § 2(f), 41 DCR 2583; Apr. 20, 1999, D.C. Law 12-242, § 2(g), 46 DCR 952; Oct. 1, 2002, D.C. Law 14-189, § 2(e), 49 DCR 6524; Mar. 8, 2006, D.C. Law 16-58, § 2(f), 53 DCR 14.)

Prior Codifications. — 1981 Ed., § 1-2520. 1973 Ed., § 6-2251.

Effect of amendments. — D.C. Law 14-189, in par. (1), substituted “facilities, services, programs, or benefits of any program or activity” for “facilities and services” and substituted “actual or perceived: race” for “race”.

D.C. Law 16-58, in par. (1), substituted “sexual orientation, gender identity or expression,” for “sexual orientation.”

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Discriminatory animus.
Disparate impact.
Endorsement and recognition.
Evidence.
Free exercise of religion.
In general.
Personal liability.
Pleadings.
Review.

Discriminatory animus.

Consistent with considering whether the circumstances surrounding the determination of a student's grade evinced a racial motivation or other discriminatory animus, in whole or in part, the fact finder in Human Rights Act case could be instructed, in an appropriate case, that academic deference can be accorded the school's grade given, and if it is determined that an unlawful discriminatory animus motivated the action, the plaintiff would be entitled to

prevail despite any academic deference accorded. *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Disparate impact.

Student who alleged that university deviated from honor code and sanctioning guidelines by suspending him for semester for plagiarism failed to sufficiently allege disparate treatment on basis of national origin, as required to state claim for discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and District of Columbia Human Rights Act (DCHRA); honor code defined plagiarism and established hearing procedures, honor council conducted hearing in accordance with code, and university dean exercised discretion to greatest extent possible under sanctioning guidelines to reduce term of student's suspension in consideration of his family situation. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Student who alleged that university's suspension of him for one semester for plagiarism was unjustly harsh punishment failed to allege he was subjected to disparate treatment due to his national origin of Indian descent, as required to state claim of discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and District of Columbia Human Rights Act (DCHRA); allegation was legal conclusion based on comment by provost office employee, who was not member of honor council that imposed suspension, that severity of punishment surprised her, and allegation lacked factual support and did not create basis for inference of discrimination. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Human Rights Act not only forbade discrimination against protected groups, such as sexual orientation, but also forbade practices which had disparate impact upon protected classes, unless that practice had nondiscriminatory justification. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Endorsement and recognition.

Private religious university's "university recognition" student group status contained implicit "endorsement" of that group; thus, university could not be compelled under Human Rights Act to grant recognition status to homo-

sexual student groups. D.C. Code 1981, § 1-2520; U.S. Const. Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

"Endorsement" implicit in private religious university's official "university recognition" status for student groups was not "facilities and services" within meaning of Human Rights Act; thus, university could not be compelled to grant homosexual student groups that status. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; U.S. Const. Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university's denial of official "university recognition" to homosexual student group, which had made no statements as to propriety of homosexual conduct, but merely endeavored to provide homosexuals with information and community services, demonstrated that university was denying such status not on basis that stated objectives of group violated its religious creed, but by sexual orientation of its members; thus, while university could not be compelled to "recognize" group under Human Rights Act, it could not deny incidental tangible benefits which accompanied such recognition. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Evidence.

University professor's generalized comments about Korean students were of the type suggesting biased attitude based on students' ethnicity or national origin, but absent evidence of link between professor's statements and the decisional process leading to Korean student's failure of comprehensive exam, student failed to meet his burden of establishing direct evidence of discrimination sufficient to support the requested direct evidence/burden-shifting instruction in student's Human Rights Act action against university for terminating his candidacy for a Doctor of Philosophy Degree (Ph.D.). *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Although Korean graduate student sought to admit white male student's exam which received a "bare pass" grade in order to compare it to student's written exam which was taken several months later and received a failing grade, other student's written essay exam was not admissible in Human Rights Act action brought by student against university for ter-

minating his candidacy for a Doctor of Philosophy Degree (Ph.D.); lay jury was not in position to analyze and compare the two exams, this was an area for academic deference, and student's performance on exam given in one semester could not be fairly analyzed against another student's performance on exam in another semester. *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Professor who had never given a comprehensive doctoral examination, put together questions for it, or graded it was not qualified to testify about the relative merit of graduate student's doctoral examination when compared with the other students, and thus, professor was not qualified to testify as an expert in Human Rights Act action brought by student against university for terminating student's candidacy for a Doctor of Philosophy Degree (Ph.D.). *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Australian professor, who had tutored graduate student, did not have sufficient knowledge and experience to testify on whether student met university's standards for performance on the comprehensive examination or whether student's performance on the examination was equal or superior to that of two other students, and thus, professor was not qualified to testify as an expert in Human Rights Act action brought by student against university for terminating student's candidacy for a Doctor of Philosophy Degree (Ph.D.); professor had never given examination at doctoral level or formulated questions for such an examination, and his post-graduate educational and teaching experiences were in Canada and Australia. *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Free exercise of religion.

Human Rights Act's requirement, that private religious university not discriminate on basis of sexual orientation, was least restrictive alternative in support of District of Columbia's compelling government interest in eradicating such discrimination, especially since tailored applications and exemptions to law would defeat its ultimate purpose; thus, Catholic university was not allowed to deny benefits and assert free exercise clause defense. (Per Mack, J., with four Judges concurring separately.) D.C. Code 1981, § 1-2520; U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private Catholic university, despite its presence as secular learning institution, met requirements to assert free exercise of religion defense against District of Columbia civil rights statute, forbidding discrimination on basis of sexual orientation; university could have both secular and sectarian characteristics. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Human Rights Act's requirement that Catholic university provide mailbox, mailing services and other services to homosexual student groups constituted burden upon university's free exercise of religion, where university had consistently refused to furnish those benefits based upon its Catholic religious teachings. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Human Rights Act's requirement, that private religious university provide tangible services to homosexual student groups, without granting group "endorsement" implicit in university's official recognition, was slight burden upon university's free exercise of religion which was overridden by District of Columbia's compelling interest in eradicating discrimination on basis of sexual orientation; thus, university could not deny tangible benefits to homosexual student groups on the basis of free exercise of religion defense. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520; U.S. Const.Amend. 1. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

In general.

There is nothing in the Human Rights Act that suggests that court's deference to academic institution is precluded from consideration in a case under the Act, nor is academic deference inconsistent with the policies underlying the Act. *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

District of Columbia had compelling interest in eradicating discrimination on basis of sexual orientation. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law*

Center v. Georgetown University, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Private religious university could not deny tangible benefits and services, such as mailbox, use of university facilities, or computer labeling service, to homosexual student groups, under provisions of Human Rights Act. D.C. Code 1981, § 1-2520; U.S. Const. Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

District of Columbia Council's belief, that District had compelling interest in eradicating discrimination on basis of sexual orientation, while not to be lightly disregarded, did not per se establish that such compelling government interest existed; determination of that issue was question of law for courts. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associate members was not "educational institution" under statute prohibiting sex discrimination by educational institutions. D.C. Code 1978 Supp. §§ 6-2202(h), 6-2251. United States Jaycees v. Bloomfield, 434 A.2d 1379, 1981 D.C. App. LEXIS 356 (1981).

Personal liability.

Disabled student and her parent could maintain claims against superintendent of District of Columbia Public Schools (DCPS) and current and former DCPS officials in their personal

capacities under District of Columbia Human Rights Act (DCHRA). Alston v. District of Columbia, 561 F.Supp.2d 29, 2008 U.S. Dist. LEXIS 47329 (2008), amended by 770 F. Supp. 2d 289, 2011 U.S. Dist. LEXIS 28583 (D.D.C. 2011).

Pleadings.

In order to avoid dismissal of student's claim of national origin discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), student was not required to set forth prima facie elements of discrimination; complaint merely had to give university fair notice of what student's claim was and the grounds upon which it rested, while no consideration would be given to inferences drawn by student that were unsupported by facts or to legal conclusions cast in form of factual allegations. Chandamuri v. Georgetown Univ., 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Review.

Actions for review of findings of state administrator with respect to appropriate education for handicapped student is more analogous to appeal from administrative agency than to cause of action is not otherwise specially prescribed, so that the 30-day limitation period for seeking review of administrative agency action under District of Columbia law is applicable to an action for review of District's decision with respect to appropriate education. Education of the Handicapped Act, § 615(e)(2), as amended, 20 U.S.C. § 1415(e)(2); D.C. Code 1981, § 12-301(8); D.C. Court of Appeals Rule 15(a). Spiegler v. District of Columbia, 866 F.2d 461, 1989 U.S. App. LEXIS 699 (C.A.D.C. 1989).

§ 2-1402.42. Exceptions regarding sex discrimination and age.

(a) Nothing in this chapter regarding sex discrimination in admission policy shall apply to any private undergraduate college or to any private preschool, elementary or secondary school; except that, when any of the above exempted colleges offers a course nowhere else available in the District, opportunity for admission to that course must be open to students of both sexes who otherwise meet lawful requirements for admission.

(b) It shall not be an unlawful discriminatory practice for the District of Columbia to prescribe minimum and maximum age limits for appointment to the police officer and firefighter cadet programs.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 242, 24 DCR 6038; Mar. 9, 1983, D.C. Law 4-172, § 4(b), 29 DCR 5745.)

Prior Codifications. — 1981 Ed., § 1-2521. 1973 Ed., § 6-2252.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 1-1401.01.

Legislative history of Law 4-172. — For legislative history of D.C. Law 4-172, see Historical and Statutory Notes following § 2-1401.01.

PART F.

GENERAL REQUIREMENTS.

§ 2-1402.51. Posting of notice.

Every person subject to this chapter shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated, a notice whose language and form has been prepared by the Office, setting forth excerpts from or summaries of, the pertinent provisions of this chapter and information pertinent to the filing of a complaint.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 251, 24 DCR 6038.)

Cross references. — Bonds and construction procurement, construction contractors and subcontractors, agreement to post notice of nondiscrimination provisions, see § 2-305.08.

Section references. — This section is referred to in § 2-1402.64.

Prior Codifications. — 1981 Ed., § 1-2522. 1973 Ed., § 6-2261.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Statute of limitations.

Court of Appeals would certify question to the District of Columbia Court of Appeals regarding whether under District of Columbia law, an employer's failure to comply with notice-posting requirements of the District of Columbia Human Rights Act provides justification for equitable tolling of the Act's one-year statute of limitations for filing of private cause of action. D.C. Code 1981, § 1-2522. *East v. Graphic Arts Indus. Joint Pension Trust*, 107 F.3d 911, 1997 U.S. App. LEXIS 4719 (C.A.D.C. 1997).

Even assuming the applicability of equitable tolling principles where employer failed to post

notice in compliance with District of Columbia Human Rights Act (DCHRA), equitable tolling would not be available to toll DCHRA's one year statute of limitations, where employee failed to file court action within reasonable time after she obtained information necessary to file her complaint; employee waited close to a year from the date on which she became aware of her right to be free of discrimination under DCHRA and two years from the date on which the alleged discrimination occurred before filing suit. D.C. Code 1981, § 1-2522, 1-2544. *East v. Graphic Arts Indus. Joint Pension Trust*, 718 A.2d 153, 1998 D.C. App. LEXIS 189 (1998).

§ 2-1402.52. Records and reports.

(a) Every person subject to this chapter shall preserve any regularly kept business records for a period of 6 months from the date of the making of the record, or from the date of the action which is the subject of the record, whichever is longer; such records shall include, but not be limited to, application forms submitted by applicants, sales and rental records, credit and reference reports, personnel records, and any other record pertaining to the status of an individual's enjoyment of the rights and privileges protected or granted under this chapter.

(b) Where a charge of discrimination has been filed against a person under this chapter, the respondent shall preserve all records which may be relevant to the charge or action, until a final disposition of the charge in accordance with subsection (c) of this section.

(c) All persons subject to this chapter shall furnish to the Office, at the time and in the manner prescribed by the Office, such reports relating to information under their control as the Office may require. The identities of persons and properties contained in reports submitted to the Office under the provisions of this section shall not be made public.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 252, 24 DCR 6038.)

Section references. — This section is referred to in § 2-1402.64.

Prior Codifications. — 1981 Ed., § 1-2523.
1973 Ed., § 6-2262.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

§ 2-1402.53. Affirmative action plans.

(a) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan that has been approved by the Office. An affirmative action plan is any plan devised to effectuate remedial or corrective action in response to past discriminatory practices prohibited under this chapter and may also include those plans devised to provide preferential treatment for a class or classes of persons, which preferential treatment by class would otherwise be prohibited by this chapter and which plan is not devised to contravene the intent of this chapter.

(b) All banks and savings and loan associations, subject to this chapter, shall submit annually to the Office an affirmative action plan which shall include goals and timetables for the remediation or correction of past or present discriminatory practices. Such plan shall be reviewed by the Office and is subject to its approval.

(c) It shall be an unlawful discriminatory practice for any bank or savings and loan association, subject to this chapter, to fail to develop an affirmative action plan approved by the Office or fail to comply substantially with the terms of such affirmative action plan.

(d) The Office shall develop and promulgate guidelines which will set forth the affirmative action requirements of this section and shall incorporate, but not be limited to, applicable federal guidelines. Such guidelines shall be promulgated by the Office within 120 days of the enactment of this law consistent with the District of Columbia Administrative Procedure Act (§ 2-501 et seq.) and shall not become effective until 60 calendar days following submission to the Council.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 253, 24 DCR 6038; Mar. 3, 1979, D.C. Law 2-140, § 3, 25 DCR 5473.)

Section references. — This section is referred to in § 2-1402.64.

Prior Codifications. — 1981 Ed., § 1-2524.
1973 Ed., § 6-2263.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 2-140. — Law

2-140 was introduced in Council and assigned Bill No. 2-294, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first, amended first, second amended first, and second readings on September 19, 1978, October 3, 1978,

October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 27, 1978, it was assigned Act No. 2-301 and transmitted to both Houses of Congress for its review.

PART G.

OTHER PROHIBITED PRACTICES.

§ 2-1402.61. Coercion or retaliation.

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this chapter.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this chapter, or because that person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing authorized under this chapter.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person to prevent any person from complying with the provisions of this chapter.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 261, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2525.
1973 Ed., § 6-2271.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Admissibility of evidence.
Adverse employment action.
Age discrimination.
Burden of proof.
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Statute of limitations.
Summary judgment.
Third-party reprisal.
Weight and sufficiency of evidence.

Admissibility of evidence.

Evidence regarding performance of terminated employee's successors in years after his termination was not relevant to employee's own job performance, in suit where employee alleged that proffered performance-related reasons for his termination were pretext for retal-

iation under Title VII and District of Columbia Human Rights Act (DCHRA). *Bowie v. Maddox*, 540 F.Supp.2d 204, 2008 U.S. Dist. LEXIS 26319 (2008).

In action by heterosexual employee alleging retaliation for challenging sexual orientation discrimination, admission into evidence of rumors regarding sexual orientation of employee's supervisor and co-workers had consequences which were at odds with purposes of Human Rights Act; rumors intruded in offensive manner on supervisor's and co-workers' privacy and held them up to ridicule, and material was presented in manner which potentially catered to actual or perceived prejudice against homosexuals among jury members and public at large. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Although trial court believed that admission of evidence of rumors regarding sexual orientation of employee's supervisor and co-workers was necessary for purposes of employee's claim of retaliation under Human Rights Act, it would have been preferable not to disclose in published opinion the names of women who were subjects of that innuendo. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Adverse employment action.

Alleged verbal statement to female employee by Chief Operating Officer (COO) of French energy company that "[y]our career is dead" at the company "if you file the claim" of gender discrimination was not materially adverse employment action that would support employee's prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA); in context of case, reasonable worker in employee's position would not have taken COO's brief, fleeting, and unadorned verbal statement as act or threat of retaliation, where both before and after that statement top company officials went out of their way to accommodate employee's desire to stay in United States, despite her increasing insubordination and refusal to consider any future employment decision that did not meet her precise demands. *Gaujacq v. EDF, Inc.*, 601 F.3d 565, 2010 U.S. App. LEXIS 7308 (C.A.D.C. 2010).

Officials of wholly-owned subsidiary of French energy company did not retaliate against female executive in violation of Title VII and District of Columbia Human Rights Act (DCHRA) when they elected to assign her to new and important position in France after her contract expired or when they terminated her after she refused to work in France; employer's proffered reasons for employee's reassignment and termination were legitimate and nonretaliatory. *Gaujacq v. EDF, Inc.*, 601 F.3d

565, 2010 U.S. App. LEXIS 7308 (C.A.D.C. 2010).

Employee suffered adverse employment action, for purposes of her prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA), when she was terminated by employer after sending complaint letter about her supervisor to employer's personnel director. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

Terminated employee presented evidence that employer took an adverse action against employee, as required in order for employee to establish a prima facie case of retaliation against employer under the District of Columbia Human Rights Act (DCHRA), where there was evidence that, though it had agreed to negotiate a consulting agreement with employee after his termination in order to pursue \$12 million in federal funding earmarked for an initiative proposed by employee, employer, after employee's attorney alleged that employee had been terminated based on his age and ethnicity, refused to negotiate the consulting agreement unless employee first released his discrimination claims. *Propp v. Counterpart Int'l*, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Employer takes an adverse personnel action for a discriminatory or retaliatory reason when the action is induced by and effectuates the illicit design of a lower-level supervisor, even if the implementing officials are an unwitting conduit; on the other hand, adverse personnel action is not improper when the deciding authorities independently determine that the action is warranted for permissible reasons, even if the catalyst for their review was the report by a biased subordinate. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

Age discrimination.

Seventy-year-old employee was not protected against employment discrimination by the District of Columbia Human Rights Act and thus could not maintain claim for retaliation allegedly motivated by age discrimination. D.C. Code 1981, §§ 1-2502(2), 1-2525(a). *Passer v. American Chemical Soc.*, 935 F.2d 322, 1991 U.S. App. LEXIS 11676 (C.A.D.C. 1991).

Burden of proof.

Once plaintiff makes prima facie showing of retaliation under District of Columbia Human Rights Act (DCHRA), a presumption of retaliation arises that shifts burden of production to employer to rebut prima facie case by producing clear and reasonably specific evidence that its actions were taken for legitimate, nonretaliatory reasons. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C.

1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

Under District of Columbia Human Rights Act (DCHRA), if employer meets its burden of articulating a nonretaliatory reason for alleged retaliatory action, burden of production shifts back to plaintiff, who must have opportunity to demonstrate that proffered reason was not true, and plaintiff's burden of production merges with ultimate burden of persuading the court that she has been victim of intentional discrimination. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

Plaintiff claiming unlawful retaliation under Title VII or District of Columbia Human Rights Act (DCHRA) may, absent direct evidence, prove her case under McDonnell-Douglas burden-shifting framework. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

To support a causal nexus between the protected activity and adverse action, for purposes of a claim brought under the District of Columbia Human Rights Act (DCHRA), plaintiff must show that a defendant had some awareness of the protected activity. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

To establish a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA) an employee must establish that more than a few isolated incidents occurred, and genuinely trivial occurrences will not establish a prima facie case; however, no specific number of incidences, and no specific level of egregiousness need be proved. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To establish a claim of retaliation under the District of Columbia Human Rights Act (DCHRA), the employee must prove that: (1) he engaged in statutorily protected activity; (2) he was subjected to adverse employment action; and (3) a causal connection exists between the two. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To establish a claim of hostile work environment under the District of Columbia Human Rights Act (DCHRA), the employee must demonstrate that: (1) he is a member of a protected class; (2) he has been subjected to unwelcome harassment; (3) the harassment was based on membership in the protected class; and (4) the harassment is severe and pervasive enough to affect a term, condition or privilege of employment. *Regan v. Grill Concepts-D.C., Inc.*, 338

F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To establish a claim of gender discrimination under the District of Columbia Human Rights Act (DCHRA), the employee must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; and (3) the unfavorable action gives rise to an inference of discrimination. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

To support student's claim that he was retaliated against by university for complaining about discriminatory grade he received from faculty member in independent study course, as required to avoid dismissal of retaliation claim under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), student was required to prove he had a reasonable good faith belief that practice he opposed was unlawful under statute. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

To avoid dismissal of claim that university retaliated against him because of race and national origin of Indian descent under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), student was required to make a prima facie showing that adverse action would not have occurred but for his engaging in protected activity of complaining about faculty member's prior discriminatory grading of him in course; to prove causal connection between his activities and university's alleged retaliation, student had to demonstrate university knew of protected activity and that retaliation closely followed. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

If plaintiff in a District of Columbia Human Rights Act (DCHRA) action is able to make out a prima facie case, burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the allegedly discriminatory or retaliatory adverse employment action. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Second step to proving discrimination under the District of Columbia Human Rights Act (DCHRA), requiring plaintiff's employer to articulate a legitimate, nondiscriminatory reason for the allegedly discriminatory or retaliatory adverse employment action, is a minimal burden on the employer and is a burden of produc-

tion, not a burden of persuasion. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

If plaintiff's employer in a District of Columbia Human Rights Act (DCHRA) action articulates a legitimate reason for the allegedly discriminatory or retaliatory adverse employment decision, and the reason is credible, the burden shifts back to plaintiff to demonstrate that the stated reason was a pretext for discrimination or retaliation. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Terminated employee presented evidence that the refusal of employer to negotiate contemplated consulting agreement with employee until terminated employee released his discrimination claims, which followed employee's attorney's alleging that employee was terminated based on his age and ethnicity, was not based on a legitimate nonretaliatory business reason, as required to prevent the burden of proof from shifting back to employee under the McDonnell Douglas framework when employee produced sufficient evidence to establish a prima facie retaliation case against employer under the District of Columbia Human Rights Act (DCHRA), as there was evidence that employer was willing to negotiate the consulting agreement without the prerequisite of a release before employee's attorney's allegation. *Propp v. Counterpart Int'l*, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Under the McDonnell Douglas framework, a plaintiff asserting a retaliation claim in violation of the District of Columbia Human Rights Act (DCHRA) bears the initial burden of producing evidence to sustain a prima facie case; if the plaintiff satisfies this burden, the employer must then produce evidence of a legitimate, nonretaliatory reason for its action, and, if the employer offers a legitimate, nonretaliatory reason, the burden then shifts back to the plaintiff to present evidence that the employer's proffered reason is pretextual. *Propp v. Counterpart Int'l*, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Where claims of intentional discrimination and retaliation rely on circumstantial evidence, rather than direct evidence linking the personnel action to a forbidden motive, court evaluates them utilizing the McDonnell Douglas tripartite burden-shifting framework. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

In a retaliation claim, the employee need only prove she had a reasonable good faith

belief that the practice she opposed was unlawful under the District of Columbia Human Rights Act (DCHRA), not that it actually violated the Act. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

If, after a prima facie case is established, the employer offers a legitimate reason for the employment action challenged by an employee under the District of Columbia Human Rights Act (DCHRA), the presumption of illegality drops out of the case, and the employee has the burden of proving by a preponderance of the evidence that the stated reason is pretextual and that the adverse personnel action was indeed retaliatory. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To establish a prima facie claim of retaliation under the Human Rights Act, a party must provide evidence that: (1) he was engaged in a protected activity, or that he opposed practices made unlawful by the Act; (2) employer took an adverse action against him; and (3) a causal connection existed between the two. *Jung v. George Washington Univ.*, 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

To prove statutory retaliation claim, employee had to establish that: (1) he was engaged in a protected activity, or that he opposed practices made unlawful by the District of Columbia Human Rights Act (DCHRA); (2) employer took an adverse personnel action against him; and (3) a causal connection existed between the two. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Under burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), once employer articulates legitimate, nondiscriminatory reasons for the employment action, the burden shifts back to the employee to prove, by a preponderance of the evidence, that the employer's stated justification for its action was not its true reason but was in fact merely a pretext to disguise discriminatory practice. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Once a presumption of discrimination is raised under the District of Columbia Human Rights Act (DCHRA) by employee's prima facie case, the burden shifts to the employer to rebut it by articulating some legitimate, nondiscriminatory reasons for the employment action. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

Although the burden of production may shift from the employee to the employer and back to the employee, under the burden-shifting test for employment discrimination claims under District of Columbia Human Rights Act (DCHRA), the employee retains the ultimate

burden of persuading the finder-of-fact that the employer acted with discriminatory animus. *Futrell v. Dep't of Labor Fed. Credit Union*, 816 A.2d 793, 2003 D.C. App. LEXIS 33 (2003).

In order to make out a prima facie case of retaliation under Title VII's opposition clause, the plaintiff must demonstrate (1) that she was engaged in statutorily protected activity, (2) that her employer took an adverse employment action, and (3) a nexus between the two. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

In a reprisal or retaliation civil rights case, a complainant is not required to establish that the underlying unlawful discrimination actually occurred, but it suffices that the complainant had a reasonable belief as to the alleged unlawful discrimination and protested, or complained thereof, to management. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Causation.

Employee's termination five days after employer's personnel director received employee's complaint letter regarding her supervisor established causation element of employee's prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA). *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

Causation element of prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA) can be met by showing that the employer had knowledge of the employee's protected activity and that the adverse personnel action took place shortly after the activity. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

Terminated employee presented evidence that there was a causal relationship between an adverse action taken by employer and employee's protected activity, as required in order for employee to establish a prima facie case of retaliation against employer under the District of Columbia Human Rights Act (DCHRA), where employer, shortly after employee's attorney alleged that employee had been terminated based on his age and ethnicity, refused to negotiate a previously proposed consulting agreement with employee unless employee signed a release, and deposition testimony by employer's chief executive officer (CEO) and president indicated that employer changed positions and required a release as a prerequisite for negotiating a consulting agreement as a result of the allegation by employee's attorney. *Propp v. Counterpart Int'l*, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Even assuming that letter from marketing manager for program in private university's academic development and continuing educa-

tion division to university's human resources department, asking questions about program director position and asking why he had not been interviewed for the position, was a complaint about unlawful discrimination, as would constitute protected activity for purposes of establishing prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA), relating to university's subsequent decision to eliminate marketing manager's position, the allegedly protected activity was not causally connected to adverse personnel action; decision to eliminate marketing manager's position was made before marketing manager wrote the letter. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

For employee of private university to show causal connection between protected activity of filing a grievance with university's equal employment activities office in August 1997 and denial of promotion in November 1998, as element of prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA), employee could not rely on imputed knowledge of institution as a whole, regarding his filing of grievance; employee had to show that decision-makers responsible for the adverse action had actual knowledge of protected activity. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Employee of private university did not show that his protected activity of filing a grievance with university's equal employment activities office in August 1997 was causally connected to elimination of his position in April 1999, as element of prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA); employee was promoted in September 1997, it was highly improbable that an employer so offended by employee's grievance as to eliminate his position in retaliation would first promote him, and there was no evidence that any individual responsible for eliminating the employee's position knew about the grievance. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Causal connection between protected activity and adverse personnel action, as element of retaliation under District of Columbia Human Rights Act (DCHRA), may be established by showing that employer had knowledge of employee's protected activity, and that adverse personnel action took place shortly after that activity. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Construction with federal law.

In analyzing a claim of employment discrimination under the District of Columbia Human

Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

Claims of retaliation, in violation of District of Columbia Human Rights Act (DCHRA), are analyzed in same manner as claims of retaliation arising under Title VII. *Bowie v. Gonzales*, 433 F.Supp.2d 24, 2006 U.S. Dist. LEXIS 26159 (2006), affirmed by 642 F.3d 1122, 395 U.S. App. D.C. 301, 2011 U.S. App. LEXIS 12472, 112 Fair Empl. Prac. Cas. (BNA) 872 (2011).

In analyzing a claim of employment discrimination under the District of Columbia Human Rights Act (DCHRA), courts look to Title VII and its jurisprudence. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

The standard for a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA) mirrors the standard for retaliation claim under federal statute prohibiting discrimination against participant in program receiving federal financial assistance. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Elements of retaliation claim are the same under District of Columbia Human Rights Act (DCHRA) as under the federal employment discrimination laws. D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

District of Columbia courts employ same standard for retaliation claims under District of Columbia Human Rights Act (DCHRA) as federal law does under the ADEA. Age Discrimination in Employment Act of 1967, § 2 et seq., 29 U.S.C. § 621 et seq.; D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Same analysis is employed under District of Columbia Human Rights Act and Title VII's opposition clause to determine whether an employer retaliated against employee for engaging in protected conduct. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

In determining whether employee established prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA), Court of Appeals would look to its cases addressing retaliation under DCHRA and to retaliation case law under federal employment discrimination legislation analogous to

DCHRA. D.C. Code 1981, § 1-2525. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Defenses.

For purposes of retaliation claim under District of Columbia Human Rights Act (DCHRA), if employee successfully shows that a retaliatory motive played a motivating part in an adverse employment decision, employer can nevertheless avoid liability by demonstrating by preponderance of evidence that it would still have taken the same action absent retaliatory motive. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

Business school's director articulated legitimate reasons for why he stopped employee who was on school's premises after hours and inquired about contents of the boxes that employee was carrying so as to rebut the prima facie case of retaliation established by employee under § 1981 and District of Columbia Human Rights Act (DCHRA); employee was not authorized to be on school's premises at time of his after-hours stop while removing boxes from school premises, this conduct on part of employee was unusual and reasonably prompted inquiry by director to determine if he was removing school's property, and director's conduct was motivated by legitimate concern for records and documents of the school. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

If plaintiff in a District of Columbia Human Rights Act (DCHRA) action successfully shows that a discriminatory or retaliatory motive played a motivating part in an adverse employment action, the employer can nevertheless avoid liability by demonstrating by a preponderance of the evidence that it would still have taken the same action absent discriminatory or retaliatory motive. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Election of remedies.

Finding by District of Columbia Office of Human Rights on merits of employee's retaliatory discharge claim was not adequate to invoke election of remedies bar to federal civil rights suit, where status of Office's initial finding of no probable cause was thrown into question by Court of Appeals' decision to remand case to Office on question of its interpretation of

retaliatory discharge statute after District had sought remand based on Office's allegedly incorrect finding of no jurisdiction. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, § 1-2525. *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Elements.

Plaintiff makes out prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA) by establishing that: (1) she was engaged in protected activity, or that she opposed practices made unlawful by DCHRA; (2) employer took adverse personnel action against her; and (3) causal connection existed between the two. D.C. Code 1981, § 1-2525(a). *Millstein v. Henske*, 722 A.2d 850, 1999 D.C. App. LEXIS 15 (1999).

To establish claim of retaliation under District of Columbia Human Rights Act (DCHRA), employee must prove that (1) he engaged in protected activity, (2) he suffered from a materially adverse act, and (3) a causal connection exists between the protected activity and the employer's act; in addition, where employee claims that retaliation took form of failure to hire, employee must also show that (1) he applied for an available job, and (2) he was qualified for the position. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

To establish a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), plaintiff must show: (1) that she engaged in protected activity; (2) that she was subjected to adverse action by the employer; and (3) that there existed a causal link between the adverse action and the protected activity. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Three elements of a prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA) include (1) that employee engaged in a protected activity, (2) that employee was subjected to an adverse action by employer, and (3) that a causal link existed between the adverse employment action and the protected activity. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

To meet the prima facie elements for a claim of retaliation under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), a plaintiff must demonstrate that: (1) he engaged in protected activity; (2) he was subjected to adverse action; and (3) there existed a causal link between the adverse action and the protected activity. *Chandamuri v.*

Georgetown Univ., 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Besides meeting prima facie elements for a claim of retaliation under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), a plaintiff must also demonstrate that his exercise of protected rights was known to the defendant. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Employee established prima facie case of retaliation under both § 1981 and District of Columbia Human Rights Act (DCHRA); employee's filing lawsuit was a statutorily protected activity and adverse actions occurred within two weeks of employee's having filed lawsuit, raising inference that the retaliatory conduct complained of was proximately caused by the filing of the lawsuit. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Employee did not demonstrate that business school's reasons for stopping employee who was on school premises after hours and inquiring about contents of the boxes he was carrying were pretextual so as to establish retaliation claim under § 1981 and District of Columbia Human Rights Act (DCHRA); fact that employee had filed lawsuit did not allow him to remove property from school's premises after hours without challenge nor did it license him to violate dress code and reporting requirements or to act in insubordinate manner and although employee alleged that others were permitted to dress in sweats and failed to report for work on time, employee offered no evidence in this regard. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Discharged employee alleged sufficient facts to support retaliation claim under District of Columbia Human Rights Act; employee alleged not only harassment and discrimination but also constructive termination as result of her refusal to consent to further sexual relations. D.C. Code 1981, § 1-2525. *Ravinskis v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

To establish prima facie case of retaliation under District of Columbia Human Rights Act, plaintiff had to establish that she was engaged in protected activity, that employer took adverse personnel action, and that causal relationship existed between two; plaintiff did not have to prove that conduct she opposed was in fact violation of Act, but only that she had good faith, reasonable belief that it was improper. D.C. Code 1981, § 1-2525. *Goos v. National*

Asso. of Realtors, 715 F. Supp. 2, 1989 U.S. Dist. LEXIS 7126 (1989).

An employee may make out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA) by demonstrating that: (1) she engaged in a protected activity by opposing or complaining about employment practices that are unlawful under the DCHRA; (2) her employer took an adverse personal action against her; and (3) there existed a causal connection between the protected activity and the adverse personnel action. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To make out a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), the plaintiff must establish: (1) he was engaged in a protected activity or he opposed practices made unlawful by DCHRA; (2) employer took adverse personnel action against him; and (3) causal connection existed between the two. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

The onus is on an employee asserting a retaliation claim to clearly voice his opposition to receive the protections provided by the District of Columbia Human Rights Act (DCHRA); general complaints about "workplace favoritism" or other conduct not actionable under the DCHRA do not put the employer on the required notice. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Reduction in university professor's salary after she refused to add a third course to her teaching load was "adverse action," for purposes of professor's Title VII claim that salary reduction was in retaliation for protected activity involving her complaints about supervisor's alleged sexist mentality. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Employee must have alerted employer to the discrimination-based nature of her opposition before inference may be drawn that she was retaliated against for exercising that right for purposes of retaliation claim under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2525(a). *Millstein v. Henske*, 722 A.2d 850, 1999 D.C. App. LEXIS 15 (1999).

Although in retaliation action plaintiff is not required to prove that activity which she opposed constituted actual violation of District of Columbia Human Rights Act (DCHRA), she nonetheless must voice her complaint about, or oppose, allegedly unlawful activity in order to prevail on her claim, and integral to this opposition requirement is that plaintiff must alert employer that she is lodging complaint about allegedly discriminatory conduct. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Employer's awareness that employee is engaged in protected activity is essential to making out prima facie case for retaliation under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

In order to receive protections against retaliation under District of Columbia Human Rights Act (DCHRA), onus is on employee to clearly voice her opposition to alleged illegal activities. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

To establish prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA), terminated employee was required to show that she opposed or complained of activity which she reasonably, in good faith, believed was based on sexual orientation discrimination, and that she so informed employer. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Although university hospital employee complained about alleged favoritism, she failed to lodge explicit complaint of sexual orientation discrimination, as required for prima facie case of retaliation for protesting preferential treatment of homosexuals, where employee never complained to university about sexual orientation discrimination, nor indicated to anyone that she believed co-workers were homosexual, or that she felt she was being treated less favorably because of her supervisor's alleged relationships with co-workers. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

For purposes of retaliation claim under District of Columbia Human Rights Act (DCHRA), communication of complaint of unlawful discrimination, in given set of factual circumstances, may be inferred or implied, even absent use of words "sex discrimination" or "sexual orientation discrimination," but employee must sufficiently alert employer to nature of her complaint. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Under District of Columbia Human Rights Act, plaintiff establishes prima facie case of retaliation by showing that he or she was engaged in statutorily protected activity, that his or her employer took adverse action, and that there was causal relationship between protected activity and adverse action; causal connection may be established by showing that an employer knew of employee's protected activity, and that adverse action took place shortly after that activity. D.C. Code 1981, § 1-2525(a). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Person to whom plaintiff made her complaint was a high enough supervisory official for notice of the discrimination complaint, under principles of agency, to be deemed notice to the defendant, as the employer. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Estoppel.

Res judicata barred employee's relitigation of his discharge under Title VII or District of Columbia Human Rights Act (DCHRA) following dismissal of his FMLA suit. *Coleman v. Potomac Elec. Power Co.*, 310 F.Supp.2d 154, 2004 U.S. Dist. LEXIS 4137 (2004), affirmed by 2004 U.S. App. LEXIS 21820 (D.C. Cir. Oct. 19, 2004).

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Where former employee brought claims of racial discrimination and retaliation under the District of Columbia Human Rights Act (DCHRA) against automobile dealership and a claim of aiding and abetting such conduct against its owner-president, judgment in favor of dealership, unless reversed on appeal, was entitled to collateral estoppel effect as to the claim asserted against owner-president. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

University professor's failure to seek judicial review of administrative ruling finding no probable cause to believe that salary reduction she received was in retaliation for protected conduct so as to violate District of Columbia Human Rights Act did not preclude her from pursuing a Title VII retaliation claim in subsequent court action. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

In general.

Under the District of Columbia Human Rights Act (DCHRA), it is unlawful for an employer to retaliate against an employee due to his opposition to any practice made lawful by the DCHRA. *Stevens v. AMTRAK*, 517

F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

District of Columbia employee, claiming that his termination violated District of Columbia Human Rights Act (DCHRA), was not limited to seeking redress through District's Office of Human Rights (OHR). *Bowie v. Gonzales*, 433 F.Supp.2d 24, 2006 U.S. Dist. LEXIS 26159 (2006), affirmed by 642 F.3d 1122, 395 U.S. App. D.C. 301, 2011 U.S. App. LEXIS 12472, 112 Fair Empl. Prac. Cas. (BNA) 872 (2011).

Under the District of Columbia Human Rights Act (DCHRA), it is unlawful for an employer to retaliate against an employee due to his opposition to any practice made unlawful by the DCHRA. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Even assuming that former employee's expression of his belief that his termination was motivated by age discrimination was protected activity under the ADEA and District of Columbia Human Rights Act (DCHRA), for purposes of a retaliation claim, former employee failed to show any adverse action entitling him to recover; withdrawal of separation benefits which employee claimed occurred because of his comments was not an adverse action given that official employer policy did not include an assurance of severance pay upon departure from company. *Age Discrimination in Employment Act of 1967*, § 4(d), 29 U.S.C. § 623(d); D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Board of trustees' failure to reelect demoted employee to board of trustees did not constitute unlawful retaliation for employee's filing of age discrimination action where, as secretary to board of trustees, employee assumed fiduciary responsibilities of corporate director and thus owed fundamental fiduciary obligation to corporation and its shareholders, requiring him generally to promote interest of corporation and to prevent conflict of interest from arising which conflicted with employee's interests in massive monetary award demanded and his emotional investment in litigation which could impede his loyalty as director. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

A plaintiff who asserts retaliation claim under Title VII, to satisfy requirement of demonstrating that he or she voiced complaint about allegedly unlawful activity to employer, need not employ any magic words such as "discrimination" in complaint to employer; communica-

tion of a complaint of unlawful discrimination may be inferred or implied from surrounding facts. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Under District of Columbia Human Rights Act (DCHRA), it is unlawful discriminatory practice for employer to retaliate against person on account of that person's opposition to any practice made unlawful by DCHRA. D.C. Code 1981, § 1-2525. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Employee cannot withhold discrimination complaint to avoid retaliation and then complain of retaliation based on complaint which omits the charge. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

To foster underlying goal of human rights statutes of ending discrimination, burden is squarely on employee to adequately voice her opposition so that management is made aware of alleged discrimination, and so that it can take appropriate steps to eliminate offensive conduct, and if employer, once aware of discrimination, chooses to retaliate against the employee for opposing conduct, employee can then seek redress under District of Columbia Human Rights Act (DCHRA). D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Fact that employer had legal right to foreclose on property which served as collateral on loan to employee did not, as matter of law, preclude finding that foreclosure suit was brought in retaliation for employee's assertion of sex discrimination; statute prohibiting retaliatory acts contained no safe harbor for otherwise lawful acts done for improper retaliatory purpose. D.C. Code 1981, § 1-2525(a). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Opponents of proposed initiative (Taxpayers' Right to Know Act) permitting public involvement in tax assessment appeals involving class four and five properties failed to show that initiative would affect any owner of class four or five property in protected activity or in exercise or enjoyment of protected right, and, thus, initiative did not violate statutory prohibition against retaliation in exercise or enjoyment of any right protected under Human Rights Act; even if public involvement in tax assessment appeals involving class four and five properties led to higher tax bills, payment of additional taxes could not be cognizable injury if tax was based on value of property. D.C. Code 1981, § 1-2525(a). *Hessey v. Burden*, 615 A.2d 562, 1992 D.C. App. LEXIS 280 (1992), remanded by, appeal dismissed sub nomine *Price v. District of Columbia Bd. of Elections & Ethics*, 645 A.2d 594, 1994 D.C. App. LEXIS 121 (D.C. 1994).

Instructions.

Jury instruction on retaliation in university

employee's action under Title VII and District of Columbia Human Rights Act (DCHRA) against university and supervisor did not leave jury free to conclude that opposing unfair or unwise personnel action could be protected activity; instruction's definition of protected activity, as opposition to "unlawful employment practice," was taken directly from statute. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Jury instruction, on retaliation claim by university employee against university and supervisor under Title VII and District of Columbia Human Rights Act (DCHRA), stating that employee's lawyer's demand letter to university was protected activity, was proper, although it did not include instruction that jury consider that letter's allegations of discrimination were not made reasonably and in good faith; there was no record basis for jury to conclude that letter was unreasonable or that it was presented in bad faith. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

New trial.

Employee was not entitled to new trial of retaliation claims under Title VII and District of Columbia Human Rights Act (DCHRA) on basis that district court erred in allowing testimony regarding investigations though defendants refused to provide employee with reports and drafts during discovery; even assuming that employee was correct that documents were not produced, jury verdict for employer was not a clear miscarriage of justice as employee had ample opportunity to present his case and would not be highly prejudiced by not having received subject report during discovery, and discovery dispute could have been resolved when testimony to which employee objected was introduced at trial and was not of great detriment to employee's ability to proceed. *Bowie v. Maddox*, 540 F.Supp.2d 204, 2008 U.S. Dist. LEXIS 26319 (2008).

Origin discrimination.

In suit by female grade 12 environmental engineer of Peruvian national origin under Title VII and District of Columbia Human Rights Act (DCHRA) alleging discrimination and retaliation with regard to her denial of competitive promotion, reason proffered by District of Columbia Department of Environment (DDOE) for canceling vacancy announcement for grade 13 environmental specialist position after plaintiff had made certification list, that budgetary constraints in fiscal year prevented it from filling position for which plaintiff applied but that with start of new fiscal year it was able to repost position, was legitimate, nondiscriminatory and nonretaliatory and shifted burden back to plaintiff to show that reason was pre-

text for discrimination based on sex and/or national origin and/or retaliation. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

District of Columbia Department of Environment (DDOE) employee, a grade 12 female environmental engineer of Peruvian national origin, established prima facie case of discrimination or retaliation under Title VII and District of Columbia Human Rights Act (DCHRA) based on employer's failure to award her competitive promotion when she applied for grade 13 environmental specialist position that was cancelled without being filled; employee argued that decision to cancel position came after she made certification list and it became apparent she was the most qualified person thereon and "residency preference" would prevent decisionmaker from selecting white male he wanted, and she produced evidence that at approximately the same time that position was being cancelled new vacancy for grade 13 environmental specialist was announced which was filled by the white male candidate. *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Reason proffered by District of Columbia Department of Environment (DDOE) for denial of request for noncompetitive promotion by female environmental engineer of Peruvian origin, that prior to adoption of promotions policy no noncompetitive promotions were being given and employees who sought higher grade were required to apply for open (posted) position, was legitimate, nondiscriminatory and nonretaliatory and shifted burden to plaintiff engineer to show that reason was pretext for discrimination based on her sex and/or national origin or retaliation under Title VII or District of Columbia Human Rights Act (DCHRA). *Evans v. District of Columbia*, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Reason proffered by District of Columbia Department of Environment (DDOE) for reducing job duties and responsibilities of female environmental engineer of Peruvian origin, that reduction was the natural consequence of need to hire additional staff to bring Storm Water Management Division up to proper staffing level, was not legitimate and nondiscriminatory or nonretaliatory and did not shift burden to her to show that reason was pretext for discrimination based on sex and/or national origin or retaliation under Title VII and District of Columbia Human Rights Act (DCHRA); employee's claim was not that hiring of additional staff and consequent reduction of her duties was itself discriminatory or retaliatory, but that her supervisor discriminated and retaliated against her by stripping her of significant and meaningful responsibilities and giving them to white male, who had been hired at lower grade and was not engineer. *Evans v.*

District of Columbia, 754 F.Supp.2d 30, 2010 U.S. Dist. LEXIS 129955 (2010).

Parties.

Where summary judgment was properly granted to automobile dealership on former employee's claims of discrimination and retaliation under the District of Columbia Human Rights Act (DCHRA), dealership's owner-president could not be held liable for aiding and abetting such alleged conduct. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2526. *Johnson v. Curtis Dworken Chevrolet* (In re Curtis Dworken Chevrolet), 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Pleadings.

Under District of Columbia law, terminated university employee who alleged she was discharged for reporting co-employee's sexual harassment of her failed to state facially plausible claim against her former employer for wrongful discharge in violation of public policy; she pointed to no statute or regulation in support of her claim, and anti-retaliation provisions of Title VII or District of Columbia Human Rights Act could not serve as predicates for common law wrongful discharge claim, as those statutes provided their own express remedies for misconduct. *Hoskins v. Howard Univ.*, 839 F.Supp.2d 268, 2012 U.S. Dist. LEXIS 37047 (2012).

For purposes of a retaliation claim under District of Columbia Human Rights Act (DCHRA), to alert the defendant that he is opposing discrimination, the plaintiff need not employ any magic words, such as discrimination, for the communication of a complaint of unlawful discrimination may be inferred or implied from the surrounding facts. *Mazloun v. D.C. Metro. Police Dep't*, 517 F.Supp.2d 74, 2007 U.S. Dist. LEXIS 28144 (2007), dismissed in part by 522 F. Supp. 2d 24, 2007 U.S. Dist. LEXIS 81793 (D.D.C. 2007).

In setting forth claim that university's one-semester suspension of student for plagiarism was in retaliation to his previous complaint about allegedly discriminatory grade he received on basis of Indian descent, student was not required to plead prima facie elements of retaliation to avoid dismissal for failure to state a claim under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA); however, student could not avoid dismissal if allegation of facts indicated university's entitlement to prevail on motion. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Student failed to allege that university was aware of his protected activity of complaining about faculty member's previous allegedly discriminatory grading of him, as required to avoid dismissal of claim alleging that university retaliated for protected conduct by suspending him for one semester for plagiarism, in violation of federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA); student's complaint to department chair about prior grade as being different from similarly situated students did not provide university with notice that student believed faculty discriminated against him on basis of race and national origin of Indian descent so as to support retaliation claim. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Student failed to allege sufficient causal connection between protected activity of complaining about faculty member's previous discriminatory grading of him and university's subsequent one-semester suspension of him for plagiarism, as required to avoid dismissal of claim alleging that university retaliated against him for engaging in protected conduct in violation of federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA); faculty member was not member of board that reviewed plagiarism charge and did not have voice in sanction imposed, and lapse of over one year between student's protected activity and university's retaliation precluded finding of causal connection. *Chandamuri v. Georgetown Univ.*, 274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

In determining whether plaintiff properly invoked Title VII as basis for retaliation claim, Court of Appeals would read plaintiff's pleading as asserting a retaliation claim under Title VII unless such a construction was plainly unreasonable. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Professor's complaint against university fairly invoked Title VII as statutory basis for claim that initial reduction of her salary was in retaliation for protected activity; first paragraph of pleading stated that complaint was filed pursuant to both District of Columbia Human Rights Act (DCHRA) and Title VII, first count was explicitly brought under both Title VII and DCHRA, and invocation exclusively of DCHRA in connection with certain allegations could reasonably be construed to mean that other claims of reprisal were intended to invoke both statutes. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Denial of university professor's motion, brought prior to second trial of her initial Title VII retaliation claim against university, to consolidate with that claim a second retaliation claim arising from events alleged to have occurred after first trial was not abuse of discretion, where discovery in second case had not been completed at time of motion, and over six years had already passed since some of the events giving rise to first action. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

It could not be said that parties treated employment discrimination suit as involving charge of retaliatory discharge as well as failure to promote where although employer deposited employee one month after discharge the facts surrounding discharge were not discussed, when asked during deposition whether he had filed retaliation claim both employee and his counsel stated that no such claim had been filed and employer, asserting that discharge claim was time-barred, objected to plaintiff employee's deposition questions of fellow employees relating to the retaliation issue. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Pretext.

There was no evidence that employer's legitimate, nondiscriminatory reason for terminating pharmacist's employment, that she repeatedly violated company policy and practices, was pretext for retaliation for pharmacist's complaint letter about her supervisor, as required to establish retaliation claim under Title VII and District of Columbia Human Rights Act (DCHRA). *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

Employer's explanation for firing pharmacist, that she repeatedly violated company policy and practices, such as by treating fellow workers poorly, being frequently tardy or absent, and by making numerous mistakes in filing prescriptions, was legitimate, nondiscriminatory reason for employer's action, and shifted burden to pharmacist to show that proffered reason was pretext for retaliation for her complaint letter about her supervisor. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

University hospital employee was not entitled to recover from university and supervisor on retaliation claim following her suspension for unexcused absence from work, even if supervisor's recommendation of suspension was for retaliatory and discriminatory reasons; supervisor had no role in ultimate disciplinary decision, there was no evidence that supervisor influenced decisionmakers by furnishing misinformation, there was no evidence that

decisionmakers imposed discipline on a pretext, and given a chance to be heard, employee did not contest accuracy or sufficiency of the data on which proposed suspension was predicated, nor did she claim that supervisor's recommendation was made with ulterior motives. *Furline v. Morrison*, 953 A.2d 344, 2008 D.C. App. LEXIS 334 (2008).

Prima facie case.

In order to state a prima facie case of retaliation under District of Columbia Human Rights Act, plaintiff must demonstrate that: (1) he engaged in statutorily protected activity; (2) his employer took an adverse personnel action against him; and (3) a causal connection exists between the two. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.C.C. 2009).

Employee failed to establish a prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA) because she could not prove that there was a causal connection between her previous lawsuit and her non-selection for the foreman position; even if supervisor stated that employer did not promote employee out of retaliation, supervisor was not part of the hiring process, and his statements, even if made, constituted hearsay, and hearsay evidence was not admissible, and mere knowledge by interviewers of employee's prior lawsuit, alone, did not suffice as a causal connection. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

To establish a prima facie case of retaliation or interference under District of Columbia Human Rights Act (DCHRA), a plaintiff must allege that (1) he engaged in activity protected under the DCHRA, or opposed practices made unlawful under the DCHRA; (2) he was subjected to adverse action; and (3) there is a causal nexus between the two. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

Lebanese citizen, as legal resident of United States, stated claim against on-duty police officers under District of Columbia Human Rights Act (DCHRA), on allegations that officers refused to take immediate formal complaint about his alleged beating by off-duty police officers, delay resulted in destruction of videotape evidence, and citizen suffered pain and suffering from delay; although DCHRA did not contain any specific mandate on filing of police complaints, handling of police complaints was not excepted from DCHRA. *Mazloun v. District*

of Columbia, 442 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 43427 (2006).

Black live-in full-time apartment building janitor of Ethiopian nationality established prima facie case of retaliatory discharge under District of Columbia Human Rights Act (DCHRA); he was terminated less than one month after he filed discrimination grievance at residential property management company's headquarters. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

To make a prima facie showing of retaliation under District of Columbia Human Rights Act (DCHRA), employee must establish that (1) he was engaged in a statutorily protected activity, (2) employer took an adverse personnel action against him, and (3) there is a causal nexus between employee's engagement in the protected activity and employer's adverse personnel action. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

A prima facie showing of retaliation under the District of Columbia Human Rights Act (DCHRA) gives rise to a presumption that the employer's conduct was unlawful, which the employer may rebut by articulating a legitimate reason for the employment action at issue. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Employer awareness that employee is engaged in protected activity is essential to making out prima facie case for retaliation under District of Columbia Human Rights Act (DCHRA). *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Protected activities.

Fact that African-American employee of non-profit health organization objected to taking staff nurse position, offered to her after her position of occupational health nurse was eliminated during corporate restructuring, on grounds that there was no pay increase did not constitute "protected activity," as required to establish retaliation claim under District of Columbia Human Rights Act (DCHRA), absent evidence that employee complained to anyone that pay was racially discriminatory. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Although an employee need not file a lawsuit or formal complaint to an enforcement agency to engage in "protected activity" required to establish a retaliation claim under the District of Columbia Human Rights Act (DCHRA), not every complaint by an employee is encom-

passed by the DCHRA; rather, the employee must alert the employer that she is lodging a complaint about allegedly discriminatory conduct. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

Employee was engaged in protected activity, for purposes of her prima facie case of retaliation under Title VII and District of Columbia Human Rights Act (DCHRA), when she sent complaint letter regarding her supervisor to employer's personnel director. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

By attempting to make formal complaint, Lebanese citizen, as legal resident of United States, alerted on-duty police officers that he was opposing his alleged discriminatory removal from nightclub and subsequent beating by off-duty police officers, for purpose of his claim of retaliation or interference against on-duty officers under District of Columbia Human Rights Act (DCHRA), where citizen was Middle Eastern in appearance, he had explained entire incident to on-duty officers from the start when they first arrived on scene, citizen's explanation included alleged derogatory reference to citizen by off-duty officer as "Al-Qaeda," and citizen's formal complaint would have included that information. *Mazloun v. District of Columbia*, 442 F.Supp.2d 1, 2006 U.S. Dist. LEXIS 43427 (2006).

Under District of Columbia Human Rights Act (DCHRA) retaliation provision, complaint of discrimination to superior suffices as a "protected activity"; law does not require formal Equal Employment Opportunity Commission (EEOC) or court filing. *Tsehay v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Employee who participated in the "Million Man March" on Washington D.C. did not engage in statutorily protected activity and as such, he failed to make out a prima facie case of retaliation for participating in the March under either § 1981 or the District of Columbia Human Rights Act (DCHRA); the March was not a protest against unlawful discriminatory employment conditions he was experiencing, but rather was a day of national atonement by black men. 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Filing of complaint, regardless of its merits, is a statutorily protected activity for purposes of retaliation claim under both § 1981 and District of Columbia Human Rights Act (DCHRA). 42 U.S.C. § 1981; D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers*

Learning Ctr., 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Employee's reliance on the belief that she was denied promotion in retaliation for having attended prayer breakfast of the "Million Man March" on Washington, D.C., which was a day of national atonement by black men, was insufficient to support a prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA); March and its related events were not statutorily protected activities. D.C. Code 1981, § 1-2501 et seq. *Beckwith v. Career Blazers Learning Ctr.*, 946 F. Supp. 1035, 1996 U.S. Dist. LEXIS 17918 (1996).

Terminated employee engaged in protected activity, as required to establish a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), where employee's attorney, while employee and employer were negotiating a contemplated consulting agreement following his termination, notified the employer that he believed that employee was terminated based on his age and ethnicity in violation of the DCHRA and the Age Discrimination in Employment Act. *Propp v. Counterpart Int'l*, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Planner subsequently terminated by Office of Planning (OP) did not engage in "protected activity" when she complained about office conditions to OP's director, and thus her termination was not a retaliatory termination in violation of the District of Columbia Human Rights Act (DCHRA), though planner, who was 50 years old, complained about favoritism towards new employees hired by director and hostility towards incumbent employees, and a majority of the new employees were under the age of 40, where the planner did not talk about salary inequities between the new employees and the incumbent employees but only about her own salary inequity, planner did not attribute any salary inequities to differences in age, and planner did not clearly link her complaints about director's unavailability and her immediate supervisor's alleged abusive behavior to age. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To engage in activity that is protected from retaliation under the District of Columbia Human Rights Act (DCHRA), an employee must alert the employer that she is lodging a complaint about allegedly unlawful discriminatory conduct; employer awareness that the employee is engaged in protected activity is thus essential to making out a prima facie case for retaliation. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

To constitute "protected activity" for purposes of a retaliation claim under the District of Columbia Human Rights Act (DCHRA), the complaint must allege an employment practice that is prohibited by the DCHRA; it is not

enough for an employee to object to favoritism, cronyism, violation of personnel policies, or mistreatment in general, without connecting it to membership in a protected class, for such practices, however repugnant they may be, are outside the purview of the DCHRA. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Not every complaint to an employer garners its author protection from retaliation under the District of Columbia Human Rights Act (DCHRA). *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

General complaints about workplace favoritism or other conduct not actionable under District of Columbia Human Rights Act (DCHRA) do not put employer on notice that employee is lodging a complaint about allegedly discriminatory conduct, as would constitute protected activity, as element of prima facie claim of retaliation under DCHRA. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

In order for employee's activity to qualify as protected, as element of prima facie claim of retaliation under District of Columbia Human Rights Act (DCHRA), employee is required to alert the employer and make employer aware of fact that he or she is lodging a complaint about allegedly discriminatory conduct, but employee need not employ any "magic words" such as "discrimination." *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Filing by employee of private university of grievance with university's equal employment activities office, alleging that male supervisor harassed him, discriminated against him on basis of gender, and retaliated against him for earlier complaint, constituted protected activity, as element of prima facie case of retaliation under District of Columbia Human Rights Act (DCHRA). *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Employee engages in protected activity, for purposes of Title VII's opposition clause, if employee opposes conduct that he or she reasonably believes to violate Title VII. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

"Protected activity," for purposes of Title VII's opposition clause, need not take the form of a lawsuit or of a formal complaint to an enforcement agency; on the contrary, the protections of Title VII extend to an employee's informal complaints of discrimination to his or her superiors within the organization. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

University professor's memorandum to supervisor, which was copied to university management and stated that professor would not

hesitate to seek advice or redress outside university if alleged sexism on supervisor's part did not cease, was "protected activity" within meaning of Title VII, for purposes of claim that subsequent salary reduction was in retaliation for protected activity, even though memorandum did not specifically refer to "discrimination." *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Purpose.

Assuming that employee's expression of his belief that his termination was motivated by age discrimination was in fact cause of retaliation resulting in withdrawal of separation package that had originally been offered and refusal of further negotiations, that conduct was not protected activity under the ADEA and District of Columbia Human Rights Act (DCHRA), which were designed to prevent retaliation against active opposition to discriminatory practices, not against general discussion and informal comments on the matter. Age Discrimination in Employment Act of 1967, § 4(d), 29 U.S.C. § 623(d); D.C. Code 1981, § 1-2501 et seq. *Paquin v. Fannie Mae*, 935 F. Supp. 26, 1996 U.S. Dist. LEXIS 11439 (1996), affirmed in part and reversed in part by, remanded by 119 F.3d 23, 326 U.S. App. D.C. 224, 1997 U.S. App. LEXIS 18992, 71 Empl. Prac. Dec. (CCH) P44936, 74 Fair Empl. Prac. Cas. (BNA) 1078, 38 Fed. R. Serv. 3d (Callaghan) 282 (1997).

Questions for jury.

Issue of whether District of Columbia Office of Inspector General's ((DCOIG's) proffered performance-related reason for employee's termination was pretext for retaliation was for jury in suit under Title VII and District of Columbia Human Rights Act (DCHRA); testimony was introduced that employee's division was disorganized, lacked direction and leadership, exhibited poor morale, and suffered from poor report writing, another witness testified that employee's management techniques were deficient and that his division suffered from untimely reports, delays in providing feedback to inspectors and investigators, and problematic writing and reviewing of reports, and jury heard testimony from several other witnesses regarding employee's alleged professional shortcomings, which as whole tended to corroborate legitimacy of "mid-year performance evaluation" that listed reasons ultimately given for employee's termination. *Bowie v. Maddox*, 540 F.Supp.2d 204, 2008 U.S. Dist. LEXIS 26319 (2008).

In determining whether the locus of charged events rises to the level of hostility under the District of Columbia Human Rights Act (DCHRA), the fact finder must focus on all the circumstances, including the frequency of the

discriminatory conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it interferes with an employee's work performance. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

In evaluating a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA), the trier of fact must determine whether offensive conduct is sufficiently severe or pervasive such that it constitutes discrimination. *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Issue of whether termination of female university employee was causally connected to her complaints of sexually hostile work environment to supervisor was for jury on retaliation claim under Title VII and District of Columbia Human Rights Act (DCHRA). *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Assuming jury should have been told it was required to decide whether supervisor's harassment of employee was severe or pervasive enough to create a work environment abusive to employees, rather than one marred by merely offensive behavior, or a few isolated instances and genuinely trivial occurrences, retrial with instructions explicitly asking for assessment of supervisor's conduct would have been a pointless act, as jury, having credited employee's claims of retaliation by managers who were willing to close their eyes to supervisor's abuses, found those deprecations severe enough to alter conditions of employee's employment. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Racial discrimination.

Under District of Columbia Human Rights Act (DCHRA), second official's refusal to advance African-American candidate's application after telephone interview, conducted in lieu of customary in-person interview, was not shown to be retaliation for African-American candidate's internal charge that original telephone interviewer had discriminated against him. *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

Relation back rule.

The greater the time that elapses between a plaintiff's protected activity and the defendant's alleged retaliation, the more difficult it is to justify an inference of causal connection between the two so as to support claim of retaliation under federal statute prohibiting discrimination against participant in program receiving federal financial assistance or the District of Columbia Human Rights Act (DCHRA). *Chandamuri v. Georgetown Univ.*,

274 F.Supp.2d 71, 2003 U.S. Dist. LEXIS 12968 (2003).

Where employee was not discharged until approximately two weeks after he filed original complaint charging denial of promotion on basis of race the "relation back" rule was not applicable to save the retaliatory discharge claim, notwithstanding that complaint charging discrimination promotion was timely. Civil Rule 15(c); D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Review.

Objection by university and its supervisor to instruction on employee's retaliation claim under Title VII and District of Columbia Human Rights Act (DCHRA), which was made after jury had retired to deliberate, was untimely. *Estes v. Georgetown Univ.*, 231 F.Supp.2d 279, 2002 U.S. Dist. LEXIS 21423 (2002).

Whether actions by an employee constitute protected activity, for purposes of employee's retaliation claim under District of Columbia Human Rights Act (DCHRA), is a question of law, and appellate court therefore reviews the trial courts' conclusions de novo. *McFarland v. George Washington Univ.*, 935 A.2d 337, 2007 D.C. App. LEXIS 660 (2007).

Whether actions by an employee constitute protected activity, for purposes of a retaliation claim asserted under Title VII, is a question of law that is reviewed de novo on appeal from trial court. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Court of Appeals, in reviewing directed verdict that was entered for university at second trial of professor's Title VII retaliation claim, was not bound under "law of the case" doctrine by trial judge's holding at first trial as to when protected activity first occurred, even assuming judge at second trial was required to follow that holding; proper inquiry on appeal was whether second trial judge's ultimate disposition was correct. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Whether reduction of university professor's salary after she refused to add third course to her teaching load was in retaliation for her repeated complaints of sexually discriminatory treatment by supervisor, or was legitimate response to professor's alleged insubordination in refusing to teach course, was question for jury in action under Title VII's opposition clause. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Where appellate court ruled that appeal was limited to trial court order dismissing amended complaint charging retaliatory discharge for filing a complaint under the Human Rights Act, appellant's request that the court reverse trial court's holding on original complaint that fail-

ure to promote was not unlawful was not properly before reviewing court. D.C. Code 1973, § 6-2201 et seq. *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Statute of limitations.

Claims under District of Columbia Human Rights Act were not barred by one-year time limit provided by Act, even though initial occurrence of alleged discrimination occurred more than one year prior to filing of action; alleged sex discrimination and retaliation were ongoing behavior, and last incident occurred well within one-year limitation period. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2544. *Ravinskaskas v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

Doctrine of continuing violation was not applicable so as to state claim of retaliatory discharge from one-year limitations provision of Human Rights Act. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Summary judgment.

Genuine issue of material fact as to whether employer's reasons for terminating employment of 69-year-old deputy administrator, based on a "functional reorganization" of her department, were legitimate, and non-discriminatory, or whether they were pretext for age discrimination, precluded summary judgment in employee's suit alleging violations of ADEA and District of Columbia Human Rights Act (DCHRA). *Bego v. District of Columbia*, 725 F.Supp.2d 31, 2010 U.S. Dist. LEXIS 73541 (2010).

Genuine issues of material fact, as to whether employer retaliated against patient care therapist for complaining of race discrimination in his failure to be selected for another position by revoking offer to work "as needed" at hospital facility, precluded summary judgment for employer on retaliation claim under District of Columbia Human Rights Act (DCHRA). *Mason v. DaVita, Inc.*, 542 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 26325 (2008).

Genuine issue of material fact existed as to whether employee's termination was result of a reduction-in-force or in retaliation for his discrimination complaint against employer, precluding summary judgment for employer on employee's claim for retaliation in violation of the District of Columbia Human Rights Act (DCHRA). *Kakeh v. United Planning Org.*, 537 F.Supp.2d 65, 2008 U.S. Dist. LEXIS 14917 (2008).

Genuine issue of material fact as to whether African-American employee was terminated for complaining about his supervisor's use of racial epithets precluded summary judgment on em-

ployee's claims against employer under District of Columbia Human Rights Act for wrongful termination and retaliation. *Odeyale v. Aramark Mgmt. Servs. Ltd. P'ship*, 518 F.Supp.2d 179, 2007 U.S. Dist. LEXIS 79463 (2007).

Genuine issues of material fact precluded summary judgment on police officer's claim that denial of application to transfer back to police department's office of internal affairs constituted retaliation for filing discrimination charges against department in violation of §§ 1981 and the District of Columbia Human Rights Act. *Medina v. District of Columbia*, 517 F.Supp.2d 272, 2007 U.S. Dist. LEXIS 40781 (2007).

Genuine issue of material fact existed as to whether defendant police officers were on notice that plaintiff's request to file a complaint was in opposition to discriminatory conduct, precluding summary judgment on issue of whether police officers retaliated against plaintiff, in violation of District of Columbia Human Rights Act (DCHRA), by refusing to take a formal police report regarding an incident in which off-duty police officers allegedly beat plaintiff in a nightclub. *Medina v. District of Columbia*, 517 F.Supp.2d 272, 2007 U.S. Dist. LEXIS 40781 (2007).

Material issues of fact, as to whether District of Columbia Office of Inspector General (DCOIG) terminated Assistant Inspector General for Investigations (AIGI) in retaliation for his submission of affidavit in support of fellow employee bringing Equal Employment Opportunity Commission (EEOC) proceeding claiming wrongful discharge, precluded summary judgment that DCOIG violated retaliation provisions of Title VII and District of Columbia Human Rights Act (DCHRA). *Bowie v. Gonzales*, 433 F.Supp.2d 24, 2006 U.S. Dist. LEXIS 26159 (2006), affirmed by 642 F.3d 1122, 395 U.S. App. D.C. 301, 2011 U.S. App. LEXIS 12472, 112 Fair Empl. Prac. Cas. (BNA) 872 (2011).

Genuine issues of material fact as to whether employer's proffered reason for terminating male restaurant employee who had complained of gender discrimination, that other employees had complained that they had been sexually harassed by the employee, was pretext for retaliation, precluded summary judgment for employer on employee's retaliation claim under the District of Columbia Human Rights Act (DCHRA). *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Genuine issues of material fact as to whether female manager's sexually infused comments to male employee and instance when female co-worker allegedly pulled down her pants in front of employee were sufficiently pervasive and severe precluded summary judgment for

employer on male employee's hostile work environment claim under the District of Columbia Human Rights Act (DCHRA). *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Genuine issues of material fact as to whether male restaurant employee's claims of gender discrimination were handled differently than those of female employees precluded summary judgment for employer on employee's claim of gender discrimination under the District of Columbia Human Rights Act (DCHRA). *Regan v. Grill Concepts-D.C., Inc.*, 338 F.Supp.2d 131, 2004 U.S. Dist. LEXIS 19908 (2004).

Genuine issues of material fact, as to whether the persons who rejected applicant for federal agency position were motivated by their awareness of his complaints about civil rights violations and whether those complaints were in good faith, precluded summary judgment on applicant's Title VII retaliation claim. *Weathersby v. Sec'y of the Interior*, 242 F.Supp.2d 20, 2003 U.S. Dist. LEXIS 1425 (2003).

Declaration by individual selected for vacant federal position created genuine issue of material fact as to whether selecting official had a discriminatory or retaliatory motive for not selecting applicant who had previously filed discrimination complaints, precluding summary judgment on applicant's Title VII retaliation claim. *Weathersby v. Sec'y of the Interior*, 242 F.Supp.2d 20, 2003 U.S. Dist. LEXIS 1425 (2003).

Genuine issues of material fact, as to whether member of rating panel for vacant federal position, who had been named as discriminating official in previous complaint filed by applicant, was animated by retaliatory motive in determining applicant's score and whether ratings relied on as basis for selecting another candidate for position were so erroneous they were pretextual, precluded summary judgment on applicant's Title VII retaliation claim. *Weathersby v. Sec'y of the Interior*, 242 F.Supp.2d 20, 2003 U.S. Dist. LEXIS 1425 (2003).

Genuine issues of material fact existed as to whether university officials had retaliatory motive in denying associate professor's requests for conversion to tenure track position and refusing to renew her contract, precluding summary judgment in favor of university on associate professor's retaliation claims under the District of Columbia Human Rights Act Statute, in view of implications of retaliation arising from actions taken after associate professor filed discrimination charges, evidence that, one department member stated that she would have voted for associate professor if associate professor had not sued university, and evidence of pretext in reasons offered for actions taken. D.C. Code 1981, § 1-2525(a). *Saunders v.*

George Washington University, 768 F. Supp. 854, 1991 U.S. Dist. LEXIS 12611 (1991).

Material fact issues existed as to whether employer's instruction to employee to discharge another employee violated any informal last-in-first-out policy and whether employee was reasonable in her belief that instruction was racially motivated, precluding summary judgment for employer on employee's retaliation claim under District of Columbia Human Rights Act. D.C. Code 1981, § 1-2525. *Goos v. National Asso. of Realtors*, 715 F. Supp. 2, 1989 U.S. Dist. LEXIS 7126 (1989).

Evidence of malice or reckless indifference on part of employer to employee's reports that he was being sexually harassed by his supervisor was fully sufficient to sustain an award of punitive damages in action alleging negligent supervision and retaliation. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Assuming that former employee invoked employer's wealth and that employer's financial statements, without more, did not meet standard for proving net worth, employer was not entitled to judgment as a matter of law on punitive damages in action for negligent supervision and for retaliation in violation of District of Columbia Human Rights Act (DCHRA), which was the sole relief it requested for alleged inadequate proof, as employee presented evidence through financial statements that employer had some ability to pay. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Genuine issue of material fact whether former employee had a reasonable, good-faith belief that she opposed a practice unlawful under the District of Columbia Human Rights Act (DCHRA) precluded summary judgment on employee's retaliatory-discharge claim against employer. *Grant v. May Dep't Stores Co.*, 786 A.2d 580, 2001 D.C. App. LEXIS 249 (2001).

Third-party reprisal.

University employee, who alleged that supervisor retaliated against her for coemployee's filing of discrimination claim with university, did not demonstrate "third-party reprisal" for purposes of her retaliation claim against supervisor under District of Columbia Human Rights Act (DCHRA); "third-party reprisal" had been recognized in situations concerning spouses, siblings, or close friends, and employee was not related to coemployee, nor were they close friends. D.C. Code 1981, § 1-2525(a). *Millstein v. Henske*, 722 A.2d 850, 1999 D.C. App. LEXIS 15 (1999).

Weight and sufficiency of evidence.

Under District of Columbia Human Rights Act (DCHRA), once employer meets its burden of articulating a nonretaliatory reason for al-

leged retaliatory action, plaintiff can meet burden of demonstrating that employer's proffered reason was not true either directly by persuading the court that a discriminatory reason more likely motivated the employer, or indirectly by showing that employer's proffered explanation is unworthy of credence. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

Supervisors' alleged comments to employee, advising her to drop her sex discrimination claim against employer, did not constitute evidence sufficient to allow reasonable inference that employer's reasons for employee's subsequent downgraded performance rating were false, for purposes of her retaliation claim under District of Columbia Human Rights Act (DCHRA), where employee herself cited narrative evaluation of her performance, which supervisor wrote after his alleged comments and after employee filed her sex discrimination claim, as an accurate portrayal of her performance and as evidence that lower performance rating had to have been product of retaliation. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

For purposes of her retaliation claim under District of Columbia Human Rights Act (DCHRA), employee failed to establish pretext in employer's explanation for her downgraded performance rating based on her claim that criticisms by two senior vice presidents were the product of collusion and fabrication; employee's admission that she had "little contact" with one senior vice president could explain his view that she needed to assume greater responsibility, and her failure to work directly with second senior vice president on particular project could have led to the latter's belief that employee needed to be more "proactive." D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

Employer provided legitimate, nonretaliatory reasons for vice president's downgraded performance rating, for purposes of retaliation claim under District of Columbia Human Rights Act (DCHRA), where employer stated that number of vice presidents against whom plaintiff was rated increased from 8 to 13 in relevant time period as result of reorganization, making the rating pool more competitive, and employer cited negative evaluations from

two senior vice presidents that contrasted with uniformly positive comments received by plaintiff's higher rated peers. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

For purposes of her retaliation claim under District of Columbia Human Rights Act (DCHRA), employee failed to establish that employer's explanation for her downgraded performance rating was pretextual based on her contention that her performance had not changed since prior year when she received a higher rating; prior ratings were done by other supervisors and, of similarly situated employees who received higher ratings than plaintiff employee in year in question, only one had been compared to plaintiff previously, receiving higher ratings than she in two previous years. D.C. Code 1981, § 1-2525(a). *Carpenter v. Fannie Mae*, 174 F.3d 231, 1999 U.S. App. LEXIS 7964 (C.A.D.C. 1999), writ of certiorari denied by 528 U.S. 876, 120 S. Ct. 184, 145 L. Ed. 2d 155, 1999 U.S. LEXIS 5879, 68 U.S.L.W. 3228 (1999).

University professor's allegations were sufficient to support retaliation claim against university, under District of Columbia Human Rights Act (DCHRA), including allegations that university publicly spread false and defamatory information about professor, reduced her job responsibilities, excluded her from participating in administrative decisions, and denied her higher merit pay raise in retaliation for her opposing discrimination against protected students, for supporting university president who was purportedly experiencing discrimination, and for challenging professor's own discriminatory treatment. *Kimmel v. Gallaudet Univ.*, 639 F.Supp.2d 34, 2009 U.S. Dist. LEXIS 67876 (2009).

African-American employee's concerns about a pay disparity, which were expressed to the employer both verbally and by means of a written proposal, did not constitute "protected activity" under District of Columbia Human Rights Act anti-retaliation provision; evidence did not show that employee's complaints to management indicated a concern that racial discrimination was an underlying reason for the alleged compensation disparity. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

Railroad employee who was terminated for violating railroad's drug and alcohol policy did not establish retaliation claim under District of Columbia Human Rights Act (DCHRA); employee tested positive for cocaine, he subsequently signed a waiver by which he agreed not

to again violate the drug and alcohol policy, his waiver stipulated that he would be terminated for subsequently violating the policy, and subsequently, he chose to leave without providing second specimen and this action violated railroad's drug and alcohol policy and his waiver agreement, and there was no indication that railroad enforced company policies arbitrarily or capriciously. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

Employer declined to promote female employee to foreman position for legitimate, non-discriminatory reasons, and employee did not show that employer's reasons were pretext for gender discrimination under District of Columbia Human Rights Act (DCHRA); according to employer, all 11 of the successful foreman applicants who were selected, two of whom were women, were better qualified than employee, all 11 had extensive mechanical experience, none of the successful applicants had received disqualifying disciplinary action within a year prior to consideration for promotion, as employee had, and employee performed poorly in her interviews. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

Police officer failed to establish that police department's denial of his transfer requests or forced reassignments constituted retaliation against him for filing employment discrimination complaints in violation of §§ 1981 and the District of Columbia Human Rights Act, absent evidence of a causal connection between his various protected activities and the alleged retaliation other than temporal proximity which at its closest spanned at least eleven months. *Stevens v. AMTRAK*, 517 F.Supp.2d 314, 2007 U.S. Dist. LEXIS 45794 (2007), affirmed by 275 Fed. Appx. 14, 2008 U.S. App. LEXIS 8545 (D.C. Cir. 2008).

Employee bringing retaliation claim may establish causation by demonstrating sufficiently close temporal proximity between employer's knowledge of protected activity and adverse employment action. *Tsehaye v. William C. Smith & Co.*, 402 F.Supp.2d 185, 2005 U.S. Dist. LEXIS 38650 (2005), affirmed by 204 Fed. Appx. 901, 2006 U.S. App. LEXIS 28985 (D.C. Cir. 2006).

Employee's mere assertions that written warning she received for failure to follow specific instructions by pastry chef on how to prepare desserts to be served at a function was in retaliation for sexual harassment complaint against a coemployee were insufficient to defeat summary judgment for employer on Title VII retaliation claim. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq. *Gregg v.*

Hay-Adams Hotel, 942 F. Supp. 1, 1996 U.S. Dist. LEXIS 14046 (1996).

Former employee made out prima facie case of retaliation under District of Columbia Human Rights Act by alleging that she was discharged after she objected to racially motivated instruction that she discharge another employee. D.C. Code 1981, § 1-2525. *Goos v. National Asso. of Realtors*, 715 F. Supp. 2, 1989 U.S. Dist. LEXIS 7126 (1989).

Reassigned employee satisfied initial burden of production on claim of retaliation in being removed as pension plan administrator by showing that he had already commenced his age discrimination action against employer at time of his removal, his removal from position representing an adverse personnel action, and employer admitted for limited purposes of motion that they replaced employees as administrator expressly because of pending lawsuit. D.C. Code 1981, § 1-2501 et seq. *Schoen v. Consumers United Group, Inc.*, 670 F. Supp. 367, 1986 U.S. Dist. LEXIS 24496 (1986).

To prove pretext sufficient to withstand a properly supported motion for summary judgment, plaintiff in a discrimination and retaliation action brought under the District of Columbia Human Rights Act (DCHRA) had to produce sufficiently probative evidence to create a genuine issue both that the reason offered for his termination was false, and that discrimination or retaliation was the real reason. D.C. Code 1981, §§ 1-2512, 1-2525. *Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

The substantial evidence test, used to determine whether an employee has established a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), is comparable to that employed in reviewing sufficiency of the evidence to withstand a motion for judgment as a matter of law; the opponent of the motion must be given the benefit of every reasonable inference from the evidence, but not inferences based on guess or speculation. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

Substantial evidence, required to establish a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), means more than a mere scintilla. *Vogel v. D.C. Office of Planning*, 944 A.2d 456, 2008 D.C. App. LEXIS 97 (2008).

University student who was terminated from his candidacy for a Doctor of Philosophy Degree (Ph.D.) did not establish retaliation claim under the Human Rights Act, absent evidence that the decision of the university's examination team to give student a failing grade was in retaliation for any protected activity in which he had engaged. *Jung v. George Washington*

Univ., 875 A.2d 95, 2005 D.C. App. LEXIS 264 (2005), amended by 883 A.2d 104, 2005 D.C. App. LEXIS 490 (D.C. 2005).

Evidence in retaliation action supported finding that humiliation, anxiety, and at least some physical symptoms that former employee suffered were caused by his transfer/demotion and events leading to his wrongful termination; employee testified that he felt "worthless" and doubly victimized when, in response to his complaints, managers first made him focus of investigation and then exonerated supervisor, employee's sister testified that in months after his demotion he became depressed and inactive, and employee testified that he had trouble eating and sleeping and even thoughts of killing supervisor and of suicide. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Finding that employee's termination was retaliatory was supported by evidence that employee's supervisor regarded altercation leading to discharge as a minor event that had not caused him to recommend termination, former supervisor, who employee accused of sexual harassment, stated his intent possibly to fire employee, and general manager apparently indulged former supervisor's abusive conduct. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Evidence was sufficient to allow jury to find that employer retaliated by transferring employer in manner effectively constituting a demotion; although employee requested transfer to another department and away from supervisor who was allegedly sexually harassing him, he did not request transfer from job of banquet chef to a job as cafeteria line worker, which entailed no responsibility and supervision of other workers, loss of pay potential in form of overtime, and diminution of job title that adversely affected his employability, and transfer was proximate to employee's written complaint against supervisor, who wrote contemporaneously of his intent to relieve employee of his duties. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Neither university employee's criticism of supervisor's decision not to promote coemployee nor supervisor's reaction to that criticism supported inference that supervisor retaliated against employee because coemployee or employee herself had engaged in protected activity; employee did not mention discrimination complaint, which had been filed by coemployee, in questioning promotion decision, and supervisor's statement did not mention discrimina-

tion complaint. D.C. Code 1981, § 1-2525(a). *Millstein v. Henske*, 722 A.2d 850, 1999 D.C. App. LEXIS 15 (1999).

Taped conversation between university hospital employee and her supervisor did not establish that supervisor was aware that employee was actually complaining of sexual orientation discrimination when she complained of alleged favoritism by supervisor toward other co-workers, as required for prima facie case of retaliatory discharge, where employee referred vaguely to rumors about supervisor and co-worker, in conversation dealing with another topic, and supervisor testified that employee never discussed supervisor's sexual orientation with her, nor complained to her about alleged relationships with co-workers. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

While proof of mere favoritism is insufficient to establish claim of discrimination under District of Columbia Human Rights Act (DCHRA), plaintiff, to make out claim for retaliation, need only prove she had reasonable good faith belief that practice she opposed was unlawful under DCHRA, not that it actually violated Act. D.C. Code 1981, §§ 1-2512(a), (a)(1), 1-2525. *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Evidence of behavior fitting homosexual stereotypes and of allegedly rampant rumors in workplace of supervisor's homosexuality did not support inference that supervisor knew that employee was actually complaining of sexual orientation discrimination when she complained of alleged favoritism by supervisor toward other co-workers, as required for employee to establish prima facie of retaliation. D.C. Code 1981, § 1-2525(b). *Howard Univ. v. Green*, 652 A.2d 41, 1994 D.C. App. LEXIS 237 (1994).

Based on comments made by the site supervisor, and by the other male employees working under his supervision, there was more than sufficient evidence from which a reasonable jury could conclude that there was sexual harassment of employees in subjecting them to a severe and pervasive pattern of sexual comments and acts which created a hostile work environment. *Drake v. Henkels & McCoy, Inc.*, 123 WLR 2217 (Super. Ct. 1995).

Evidence was insufficient to show the necessary causal relationship to establish retaliation for the filing of a formal complaint of sex discrimination. *Tyler v. Howard Univ.*, 124 WLR 49 (Super. Ct. 1995).

§ 2-1402.62. Aiding or abetting.

It shall be an unlawful discriminatory practice for any person to aid, abet,

invite, compel, or coerce the doing of any of the acts forbidden under the provisions of this chapter or to attempt to do so.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 262, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2526. 1973 Ed., § 6-2272.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Exhaustion of administrative remedies.
In general.
Parties.

Exhaustion of administrative remedies.

Police officer was required to exhaust administrative remedies before bringing claim for discrimination based on sexual orientation and was not entitled to withdraw complaint from Office of Human Rights and file lawsuit prior to decision on merits. D.C. Code 1981, §§ 1-2512, 1-2526, 1-2556(a). *Newman v. District of Columbia*, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

In general.

Terminated employee's former supervisors were amenable to suit in their individual capacities under the District of Columbia's Human Rights Act; supervisors fell within ambit of Act's definition of "employer," and if employer unlawfully discriminated against employee, then supervisors could be liable under Act for aiding, abetting, inviting, or coercing discrimination. *MacIntosh v. Bldg. Owners & Managers Ass'n Int'l*, 355 F.Supp.2d 223, 2005 U.S. Dist. LEXIS 318 (2005).

Where summary judgment was properly granted to automobile dealership on former employee's claims of discrimination and retaliation under the District of Columbia Human

Rights Act (DCHRA), dealership's owner-president could not be held liable for aiding and abetting such alleged conduct. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2526. *Johnson v. Curtis Dworken Chevrolet (In re Curtis Dworken Chevrolet)*, 242 B.R. 773, 1999 Bankr. LEXIS 1570 (1999), affirmed by 242 B.R. 773, 1999 U.S. Dist. LEXIS 19143 (D.D.C. 1999).

Aider or abettor is one who, in some sort, associates himself with the venture, participates in it as something he wishes to bring about, and seeks by his action to make it succeed for purposes of Human Rights Act section making it an unlawful discriminatory practice for any person to aid or abet the doing of any of the acts forbidden under Act. D.C. Code 1981, § 1-2526. *Wallace v. Skadden, Arps, Slate, Meagher & Flom*, 715 A.2d 873, 1998 D.C. App. LEXIS 138 (1998).

Parties.

Partners in law firm were amenable to suit in their individual capacities under Human Rights Act; partners fell within ambit of Act's definition of employer, and if firm unlawfully discriminated against associate as alleged, then the partners who carried out the allegedly discriminatory acts aided and abetted the employer's discrimination. D.C. Code 1981, §§ 1-2502(10), 1-2526. *Wallace v. Skadden, Arps, Slate, Meagher & Flom*, 715 A.2d 873, 1998 D.C. App. LEXIS 138 (1998).

§ 2-1402.63. Conciliation agreements.

It shall be an unlawful discriminatory practice for a party to a conciliation agreement, made under the provisions of this chapter, to violate the terms of such agreement.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 263, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2527. 1973 Ed., § 6-2273.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

§ 2-1402.64. Resisting the Office or Commission.

(a) Any person who shall willfully resist, prevent, impede or interfere with

the Office or the Commission, or any of their representatives, in the performance of any duty under the provisions of this chapter, or shall willfully violate an order of the Commission, shall upon conviction, be punished by imprisonment for not more than 10 days, or by a fine of not more than \$300, or by both, except, that filing a petition for review of an order, pursuant to the provisions of this chapter, shall not be deemed to constitute such willful conduct, nor shall compliance with any procedure regarding a subpoena in accord with § 5-1021, be deemed to constitute such willful conduct.

(b) It shall be an unlawful discriminatory practice for a person subject to this chapter, to fail to post notices, maintain records, file reports, as required by §§ 2-1402.51 to 2-1402.53, or to supply documents and information requested by the Office in connection with a matter under investigation.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 264, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2528.
1973 Ed., § 6-2274.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Limitation of actions.

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied

to employee's employment discrimination claim against employer. *Potts v. Howard Univ. Hosp.*, 598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

§ 2-1402.65. Falsifying documents and testimony.

It shall be unlawful to willfully falsify documents, records, or reports, which are required or subpoenaed pursuant to this chapter, or willfully to falsify testimony, or to intimidate any witness or complainant; such violations shall be punishable by imprisonment for not more than 10 days, or by a fine of not more than \$300, or by both.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 265, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2529.
1973 Ed., § 6-2275.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Limitation of actions.

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied

to employee's employment discrimination claim against employer. *Potts v. Howard Univ. Hosp.*, 598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

§ 2-1402.66. Arrest records.

It shall be an unlawful practice, punishable by a fine of not more than \$300, or imprisonment for not more than 10 days, or both, for any person to require the production of any arrest record or any copy, extract, or statement thereof,

at the monetary expense of any individual to whom such record may relate. Such "arrest records" shall contain only listings of convictions and forfeitures of collateral that have occurred within 10 years of the time at which such record is requested.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 266, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2530.
1973 Ed., § 6-2276.

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 2-38. — For

CASE NOTES

In general.

Ordinance prohibiting disclosure of arrest records, standing alone, prohibited release of any arrest records where arrest did not lead to

conviction. *Newspapers, Inc. v. Metropolitan Police Dep't*, 546 A.2d 990, 1988 D.C. App. LEXIS 148 (1988).

§ 2-1402.67. District of Columbia.

All permits, licenses, franchises, benefits, exemptions, or advantages issued by or on behalf of the government of the District of Columbia, shall specifically require and be conditioned upon full compliance with the provisions of this chapter; and shall further specify that the failure or refusal to comply with any provision of this chapter shall be a proper basis for revocation of such permit, license, franchise, benefit, exemption, or advantage.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 267, 24 DCR 6038.)

Section references. — This section is referred to in §§ 2-1401.02 and 34-1731.09.

Prior Codifications. — 1981 Ed., § 1-2531.
1973 Ed., § 6-2277.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

§ 2-1402.68. Effects clause.

Any practice which has the effect or consequence of violating any of the provisions of this chapter shall be deemed to be an unlawful discriminatory practice.

(Dec. 13, 1977, D.C. Law 2-38, title II, § 268, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2532.
1973 Ed., § 6-2278.

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 2-38. — For

CASE NOTES

ANALYSIS

Disparate impact.
Inference of national origin discrimination.
Limitation of actions.
Summary judgment.

Disparate impact.

Prospective taxi patrons who brought action

against cab company, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, demonstrated that company's business practice of picking up passengers from quadrant at lower rate than it did from remainder of city bore disproportionately on African-Americans, as required for prima facie case of race-

based discrimination under District of Columbia Human Rights Act (DCHRA); uncontroverted evidence showed that pickup rate for all portions of city other than quadrant at issue was 2.6 times larger than pickup rate for quadrant, and that African-Americans constituted only 60% of city's population, but 96% of quadrant's population. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Cab company that was sued by prospective taxi patrons, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, failed to present any evidence that its practices constituted valid "business necessity," as required to rebut patrons' prima facie case of race-based discrimination under District of Columbia Human Rights Act (DCHRA). *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Prospective taxi patrons who brought action against cab company, stemming from company's alleged failure to provide adequate service to predominantly African-American quadrant of city, presented uncontroverted evidence demonstrating that company was significantly less likely to pick up person requesting service from quadrant than from another part of the city, as required for prima facie case of residence-based discrimination under District of Columbia Human Rights Act (DCHRA). *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Under a disparate impact theory of discrimination in a District of Columbia Human Rights Act (DCHRA) action, an employer's good faith does not redeem employment procedures or testing mechanisms that operate as built-in headwinds for minority groups and are unrelated to measuring job capability. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Proposed initiative (Taxpayers' Right to Know Act) affecting class four and five property did not violate provision of Human Rights Act that bans discriminatory practices bearing disproportionately on members of protected class; classes two and three also include income-producing property, and owners of class four and five property did not qualify as protected class. D.C. Code 1981, § 1-2532. *Hessey v. Burden*, 615 A.2d 562, 1992 D.C. App. LEXIS 280 (1992), remanded by, appeal dismissed sub nomine *Price v. District of Columbia Bd. of Elections & Ethics*, 645 A.2d 594, 1994 D.C. App. LEXIS 121 (D.C. 1994).

Human Rights Act not only forbade discrimination against protected groups, such as sexual orientation, but also forbade practices which had disparate impact upon protected classes, unless that practice had nondiscriminatory justification. (Per Mack, J., with two

Judges concurring separately and two Judges concurring in result.) D.C. Code 1981, § 1-2520. *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1, 1987 D.C. App. LEXIS 486 (1987).

Inference of national origin discrimination.

Inference of national origin discrimination could arise under District of Columbia Human Rights Act (DCHRA) based on evidence of an employer's English proficiency requirement; D.C. Office of Human Rights (DC OHR) had adopted Equal Employment Opportunity Commission (EEOC) national origin regulations under which fluency-in-English and English-only requirements for employment were to be carefully investigated for both disparate treatment and adverse impact on the basis of national origin, and DC OHR was entitled to deference as the agency charged with implementing the DCHRA. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Limitation of actions.

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied to employee's employment discrimination claim against employer. *Potts v. Howard Univ. Hosp.*, 598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

Summary judgment.

Genuine issues of material fact, regarding whether cab company acted out of ill will or willfully disregarded prospective taxi patrons' rights by allegedly failing to provide adequate service to predominantly African-American quadrant of city, precluded summary judgment on patrons' claim against company for punitive damages under District of Columbia Human Rights Act (DCHRA) and District of Columbia tort law. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Genuine issues of material fact, regarding whether potential violations of taxi patrons' rights under District of Columbia Human Rights Act (DCHRA) and §§ 1981, stemming from alleged failure of cab company to provide adequate service to predominantly African-American quadrant of city, could have been attributable to incompetent behavior on part of company's employees precluded summary judgment on patrons' negligent supervision claim against company under District of Columbia law. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 2003 U.S. Dist. LEXIS 12492 (2003).

Genuine issue of material fact as to whether employer's English and Spanish language proficiency requirement was evidence of discrimination against employee, who was fired because he was not proficient in English, on the

basis of employee's Peruvian national origin, and genuine issue of material fact as to whether a similarly situated employee, who was not in employee's protected class but had problems in communicating with employer's customers in Spanish, was treated more favorably, precluded summary judgment for em-

ployer on issue of whether terminated employee established a prima facie case of disparate treatment national origin discrimination against employer under the District of Columbia Human Rights Act (DCHRA). *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

PART H.

MISCELLANEOUS PROVISIONS.

§ 2-1402.71. Prohibitions.

It is unlawful discriminatory practice for an insurer authorized to sell motor vehicle insurance in the District of Columbia to do any of the following acts, wholly or partially for a discriminatory reason based on actual or perceived: race, color, religion, national origin, sex, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, disability, matriculation, political affiliation, lawful occupation, or location within the geographical area of the District of Columbia of any individual:

- (1) To fail or refuse to issue a policy of motor vehicle insurance;
- (2) To fail or refuse to renew a policy of motor vehicle insurance; or
- (3) To cancel a policy of motor vehicle insurance.

(Dec. 13, 1977, D.C. Law 2-38, § 271, as added Sept. 18, 1982, D.C. Law 4-155, § 14(b), 29 DCR 3491; June 28, 1994, D.C. Law 10-129, § 2(g), 41 DCR 2583; Oct. 21, 1995, D.C. Law 11-64, § 2(a), 42 DCR 4322; Oct. 1, 2002, D.C. Law 14-189, § 2(f), 49 DCR 6523; Mar. 8, 2006, D.C. Law 16-58, § 2(g), 53 DCR 14.)

Prior Codifications. — 1981 Ed., § 1-2533.

Effect of amendments. — D.C. Law 14-189 substituted "actual or perceived: race" for "race".

D.C. Law 16-58 substituted "sexual orientation, gender identity or expression," for "sexual orientation,".

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 4-155. — Law 4-155 was introduced in Council and assigned Bill No. 4-140, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first, amended first, second amended first, and second readings on May 11, 1982, May 25, 1982, June 8,

1982, and June 22, 1982, respectively. Deemed approved without Mayoral signature upon expiration of the Mayoral review period on July 22, 1982, it was assigned Act No. 4-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-129. — For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 11-64. — For legislative history of D.C. Law 11-64, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

CASE NOTES

In general.

Amendment of Human Rights Act to make specific reference to automobile insurance policies supported conclusion that Act was not

intended to regulate pricing of insurance policies; amendment referring to automobile policies was limited to automobile insurance and did not refer to discrimination in insurance

rates. D.C. Code 1981, §§ 1-2501 to 1-2557.
 NOW v. Mutual of Omaha Ins. Co., 531 A.2d
 274, 1987 D.C. App. LEXIS 438 (1987).

§ 2-1402.72. Motor vehicle rental companies.

Notwithstanding any other provision of this chapter, it shall not be an unlawful practice for a motor vehicle rental company to fail or refuse to rent a motor vehicle, or to impose differential terms and conditions upon the rental of a motor vehicle, based on the age of any person, where such action is reasonably related to accident risk or threat to public safety.

(Sept. 18, 1982, D.C. Law 4-155, § 272, as added Oct. 21, 1995, D.C. Law 11-64, § 2(b), 42 DCR 4322.)

Prior Codifications. — 1981 Ed., § 1-2534.

Legislative history of Law 11-64. — Law 11-64, the “Motor Vehicle Rental Company Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-162, which was referred to the Committee on Labor and Human Rights. The Bill was adopted on first

and second readings on June 20, 1995, and July 11, 1995, respectively. Approved without the signature of the Mayor on July 28, 1995, it was assigned Act No. 11-126 and transmitted to both Houses of Congress for its review. D.C. Law 11-64 became effective on November 21, 1995.

§ 2-1402.73. Application to the District government.

Except as otherwise provided for by District law or when otherwise lawfully and reasonably permitted, it shall be an unlawful discriminatory practice for a District government agency or office to limit or refuse to provide any facility, service, program, or benefit to any individual on the basis of an individual’s actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business.

(Dec. 13, 1977, D.C. Law 2-38, § 273, as added Oct. 1, 2002, D.C. Law 14-189, § 2(g), 49 DCR 6523; Mar. 8, 2006, D.C. Law 16-58, § 2(h), 53 DCR 14.)

Effect of amendments. — D.C. Law 16-58 substituted “sexual orientation, gender identity or expression,” for “sexual orientation.”

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 16-58. — For Law 16-58, see notes following § 2-1401.01.

PART I.

BREASTFEEDING MOTHERS.

§ 2-1402.81. Findings and purposes.

(a) The Council finds that:

(1) The encouragement of a public acceptance of breastfeeding is consistent with the promotion of family values between a mother and her child and

no mother should be made to feel incriminated or socially ostracized for breastfeeding her child.

(2) Breastfeeding a baby constitutes a basic act of nurturing to which every mother and child has a right and which should be encouraged in the interests of maternal and child health.

(3) Breastfeeding provides significant health benefits to both the mother and child. Breastfeeding provides maternal protection from breast cancer, osteoporosis, urinary tract infections, and other cancers. Studies indicate that if every mother in the United States breastfed their children for 2 years, breast cancer could decline by 25%.

(4) Social constraints of modern society weigh against the choice of breastfeeding and often result in new mothers opting to choose formula feeding to avoid embarrassment, social ostracism, or criminal prosecution.

(5) Studies show that babies who are not breastfed have higher rates of death, meningitis, childhood leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections, diarrhoeal diseases, otitis media, allergies, obesity, and developmental delays. Breastfeeding may also raise a baby's intelligence quotient.

(6) To attain an optimal, healthy start in life, the Surgeon General of the United States and the American Academy of Pediatrics recommend that babies from birth to at least one year of age be breastfed unless medically contraindicated. In addition, the World Health Organization and UNICEF have established the encouragement of breastfeeding as one of their major goals for the decade.

(7) Despite these recommendations, statistics reveal a declining percentage of mothers are choosing to breastfeed their children. Nearly 50% of all new mothers are now choosing formula over breastfeeding before they leave the hospital, only 20% are still breastfeeding when their babies are 6 months of age, and only 6% are still breastfeeding when their babies are one year of age.

(b) This part has the following purposes:

(1) To increase the incidence and duration of breastfeeding as a goal for optimal maternal and child health and nutrition;

(2) To enable women who so choose to freely breastfeed their children so that infants may be fed exclusively on breast milk from birth to 4 to 6 months of age;

(3) To further enable women to breastfeed while giving appropriate and adequate complementary foods to children for up to 2 years of age or beyond; and

(4) To create an appropriate environment of awareness and support so that women can breastfeed and thereby achieve an ideal child nutrition option.

(Dec. 13, 1977, D.C. Law 2-38, § 281, as added Dec. 11, 2007, D.C. Law 17-58, § 2(b), 54 DCR 10714.)

Legislative history of Law 17-58. — Law 17-58, the “Child’s Right to Nurse Human Rights Amendment Act of 2007”, was introduced in Council and assigned Bill No. 17-133 which was referred to the Committee on Work-

force Development and Government Operations. The Bill was adopted on first and second readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 17, 2007, it was assigned Act No. 17-132 and

transmitted to both Houses of Congress for its review. D.C. Law 17-58 became effective on December 11, 2007.

§ 2-1402.82. Rights of breastfeeding mothers.

(a) For the purposes of this section, the term:

(1) “Reasonable efforts” means any effort that would not impose an undue hardship on the operation of an employer’s business.

(2) “Undue hardship” means any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources, and the nature and structure of its operation.

(b) It shall be an unlawful discriminatory practice to deny a woman any right provided under this section.

(c)(1) A woman shall have the right to breastfeed her child in any location, public or private, where she has the right to be with her child, without respect to whether the mother’s breast or any part of it is uncovered during or incidental to the breastfeeding of her child.

(2) Notwithstanding any other provision of District of Columbia law governing indecent exposure or the definition of the private or intimate parts of a female person, including that portion of the breast that is below the top of the areola, a woman shall have the right to breastfeed in accordance with this section.

(d)(1) An employer shall provide reasonable daily unpaid break periods, as required by the employee, so that the employee may express breast milk for her child to maintain milk supply and comfort. If any break period, paid or unpaid, is already provided to the employee by the employer, the break period required shall run concurrently with the break periods already provided. Notwithstanding the foregoing, an employer shall not be required to provide break periods if it would create an undue hardship on the operations of the employer.

(2) An employer shall make reasonable efforts to provide a sanitary room or other location in close proximity to the work area, other than a bathroom or toilet stall, where an employee can express her breast milk in privacy and security. The location may include a childcare facility in close proximity to the employee’s work location.

(Dec. 13, 1977, D.C. Law 2-38, § 282, as added Dec. 11, 2007, D.C. Law 17-58, § 2(b), 54 DCR 10714.)

Legislative history of Law 17-58. — For Law 17-58, see notes following § 2-1402.81.

§ 2-1402.83. Duties of the Department of Health.

The Department of Health shall monitor breastfeeding rates in the District of Columbia, the number and nature of complaints regarding violations of this part received by the Office of Human Rights, and any benefits reported by working breastfeeding mothers and employers to the Department of Health.

The Department of Health shall issue annual reports of its findings to the Council.

(Dec. 13, 1977, D.C. Law 2-38, § 283, as added Dec. 11, 2007, D.C. Law 17-58, § 2(b), 54 DCR 10714.)

Cross references. — Procurement, bonds and construction, nondiscrimination provisions, see § 2-305.08.

Legislative history of Law 17-58. — For Law 17-58, see notes following § 2-1402.81.

Subchapter III. Procedures.

§ 2-1403.01. Powers of Office and Commission; annual report by Mayor.

(a) The activities of the Office and the Commission, under the provisions of this chapter, shall be considered investigations or examinations of municipal matters, within the meaning of § 5-1021; and the Commission, the individual members thereof, and the Director, shall possess the powers vested in the Council of the District of Columbia.

(b) The Office is hereby empowered to undertake its own investigations and public hearings on any racial, religious, and ethnic group tensions, prejudice, intolerance, bigotry, and disorder; and on any form of, or reason for, discrimination, in accordance with §§ 2-1401.01 and 2-1402.01, against any person, group of persons, organization, or corporations, whether practiced by private persons, associations, corporations, city officials, or city agencies; for the purpose of making appropriate recommendations for action, including legislation, against such discrimination.

(c) The Office and the Commission may make, issue, adopt, promulgate, amend, and rescind such rules and procedures as they deem necessary to effectuate and which are not in conflict with, the provisions of this chapter. Such rules and procedures and amendments thereto shall be adopted and promulgated in accordance with procedures promulgated pursuant to the D.C. Administrative Procedure Act (§ 2-501 et seq.).

(d) In taking any action authorized or required by the provisions of this chapter, the Commission may act through panels or a division of not less than 3 of its members, a majority of whom shall constitute a quorum.

(e) The Mayor shall recommend to the Council any additional regulations.

(f) Investigations relating to the enforcement of provisions of this chapter shall be given priority over all other duties and activities of the Office.

(g) The Mayor shall report annually to the Council as to the progress with regard to the enforcement of this chapter, and any other activity related to the field of human rights deemed valuable to the Council in the pursuit of its responsibilities.

(h) The Office and the Commission shall enforce §§ 34-1240 [repealed], 34-1241 [repealed], 34-1242 [repealed], 34-1243 [repealed] and any other human rights provisions of Chapter 12 of Title 34.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 301, 24 DCR 6038; Aug. 21, 1982, D.C. Law 4-142, § 42(i), 29 DCR 2872.)

Prior Codifications. — 1981 Ed., § 1-2541. 1973 Ed., § 6-2281.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 4-142. — Law 4-142 was introduced in Council and assigned Bill No. 4-35, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second

readings on March 9, 1982, and June 8, 1982, respectively. Approved without signature by the Mayor, it was assigned Act No. 4-208 and transmitted to both Houses of Congress for its review.

Mayor's Orders. — Establishment of Department of Human Rights and Minority Business Development: See Mayor's Order 89-247, November 1, 1989.

CASE NOTES

ANALYSIS

Estoppel.

In general.

Jurisdiction.

Notice.

Statute of limitations.

Estoppel.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

In general.

District of Columbia Human Rights Act provision guaranteeing opportunity to participate equally in economic life of District protected only activities that were specifically enumerated within statute and did not include action based on wrongful termination of contract. D.C. Code 1981, § 1-2511. *Gersman v. Group Health Ass'n*, 931 F.2d 1565, 1991 U.S. App. LEXIS 8486 (C.A.D.C. 1991), vacated by, remanded by 502 U.S. 1068, 112 S. Ct. 960, 117 L. Ed. 2d 127, 1992 U.S. LEXIS 655, 60 U.S.L.W. 3519, 58 Empl. Prac. Dec. (CCH) P41300 (1992).

Office of Human Rights' (OHR's) reading of phrase "failure of conciliation efforts," contained in section of District of Columbia Human Rights Act which required public hearing after failure of conciliation efforts, to mean that complainant was willing to engage in conciliation but respondent either refused to participate or offered settlement that would not remedy discrimination, was not unreasonable; strong policies favored compliance and settlement of discrimination claims, housing discrim-

ination complainant could have chosen to bring discrimination claim in court rather than administratively, and broad statutory grant of authority to OHR would have been undermined by leaving with complainant unilateral decision whether to accept make whole offer that in fact would undo discrimination and its effects. D.C. Code, §§ 1-2541(c), 1-2550, 1-2556(a). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Jurisdiction.

Court of Appeals had jurisdiction to consider on direct review housing discrimination complainant's contention that promulgation of rule granting director of Office of Human Rights (OHR) authority to order complaint which alleged discriminatory practice dismissed, if respondent offered complainant relief in conciliation that would have put complainant in same position as if no discrimination had occurred and complainant refused offer, contravened authority delegated to OHR by governing statute, as if housing discrimination complainant was correct, OHR lacked authority to deny her trial-type hearing before Human Rights Commission once probable cause of housing discrimination was found. D.C. Code 1981, § 1-2541(c). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Statute of limitations.

Statute of limitations of three years under District of Columbia law for personal injury actions, rather than one-year statute of limitations for defamation, assault, battery, malicious prosecution, false arrest, and false imprisonment, governed § 1981 claim alleging dis-

charge in retaliation for opposition to discriminatory treatment of black employee. 42 U.S.C. § 1981; D.C. Code 1981, § 12-301(4, 8). *Alder v.*

Columbia Historical Soc., 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

§ 2-1403.02. Complaints; independent action by other District agencies.

Nothing in the provisions of this chapter is deemed to relieve any agency or authority of the government of the District of its obligation to take immediate and independent action regarding a matter filed with it, in accord with its jurisdiction, that also may be the subject of a complaint filed with the Office.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 302, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2542. 1973 Ed., § 6-2282.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Notice.

While lesbian officers' reports filed with Metropolitan Police Department (MPD), MPD Medical Service Division memoranda written in response to reports, and Internal Affairs Division (IAD) investigative records created in response to officers' internal EEO complaints qualified as reports "in regular course of duty," content of those reports did not, individually or collectively, provide sufficient notice to Mayor of cause or circumstances underlying claims for unliquidated damages under District of Columbia Human Rights Act (DCHRA) based on sex discrimination and sexual orientation discrimination regarding officer's nonpromotion; however, officers could still seek liquidated damages, including back pay, under those counts. *Jones v. District of Columbia*, 2012 WL 3024970 (2012).

Employee sought unliquidated damages, and therefore, dismissal of employee's action against employer under the District of Columbia Human Rights Act (DCHRA) was warranted, where employee sought compensatory damages for pain and suffering, and failed to give required notice under District of Columbia notice statute. *Elezeneiny v. District of Columbia*, 699 F.Supp.2d 31, 2010 U.S. Dist. LEXIS 29726 (2010).

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.03. Establishment of procedure for complaints filed against District government.

(a) The Mayor shall establish rules of procedure for the investigation, conciliation, and hearing of administrative complaints filed against District government agencies, officials and employees alleging violations of this chapter. The final administrative determination in such matters shall be made by the Mayor or his designee.

(b) A person claiming to be aggrieved by an unlawful discriminatory practice on the part of District government agencies, officials, or employees may elect to file an administrative complaint under the rules of procedure established by the Mayor under this section or a civil action in a court of competent jurisdiction under § 2-1403.16.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 303, 24 DCR 6038; Oct. 1, 2002, D.C.

Law 14-189, § 2(h), 49 DCR 6523; Mar. 13, 2004, D.C. Law 15-105, § 28, 51 DCR 881.)

Cross references. — Administration, merit system, reductions-in-force, selection of position to be abolished, review procedure, see § 1-624.08.

Section references. — This section is referred to in §§ 2-1403.04 and 2-1403.16.

Prior Codifications. — 1981 Ed., § 1-2543. 1973 Ed., § 6-2283.

Effect of amendments. — D.C. Law 14-189, designated the section as subsec. (a); added subsec. (b); and rewrote the newly designated subsec. (a) which had read as follows: “Notwithstanding any other provision of this chapter, the Mayor shall establish rules of procedure for the investigation, conciliation,

and hearing of complaints filed against District government agencies, officials and employees alleging violations of this chapter. The final determination in such matters shall be made by the Mayor or his designee.”

D.C. Law 15-105 validated a previously made technical correction.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

Legislative history of Law 15-105. — For Law 15-105, see notes following § 2-602.

CASE NOTES

ANALYSIS

Damages.

Exhaustion of administrative remedies.

Government employees.

Jurisdiction.

Notice.

Damages.

Even assuming that compensatory damages were available to public employees in District of Columbia under Mayor's Order governing public employees' rights under District of Columbia Human Rights Act (DCHRA), Court of Appeals would not disturb hearing examiner's determination firefighter discharged in violation of DCHRA was not entitled to compensatory damages and related attorney fees, on basis that meager record did not support such recoveries. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Exhaustion of administrative remedies.

Department of Labor employee fully exhausted her administrative remedies with respect to her employment discrimination grievances, as required to bring action under Title VII against DOL, where she timely appealed arbitrator's dismissal of her Equal Employment Opportunity (EEO) complaints, and EEO failed to issue a decision on her appeal within 180 days of filing of appeal. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Failure to exhaust administrative remedies ordinarily bars a plaintiff from proceeding on her employment discrimination claims in court. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Any plaintiff, not just employees of District of Columbia, must exhaust administrative proce-

dures promulgated by mayor before bringing suit under District of Columbia Human Rights Act (DCHRA) against District, its agencies, or officials. *Armstrong v. D.C. Pub. Library*, 154 F.Supp.2d 67, 2001 U.S. Dist. LEXIS 12585 (2001).

District of Columbia Public Schools (DCPS) employee was “government employee,” and thus was required to exhaust administrative remedies before filing suit under District of Columbia Human Rights Act (DCHRA). *Fowler v. District of Columbia*, 122 F.Supp.2d 37, 2000 U.S. Dist. LEXIS 17018 (2000), dismissed by 404 F. Supp. 2d 206, 2005 U.S. Dist. LEXIS 35248 (D.D.C. 2005).

District of Columbia's worksharing agreement with Equal Employment Opportunity Commission (EEOC) allowed District of Columbia government employee to exhaust state administrative remedies, for purposes of filing claim under District of Columbia Human Rights Act (DCHRA), by filing claim with EEOC. *Fowler v. District of Columbia*, 122 F.Supp.2d 37, 2000 U.S. Dist. LEXIS 17018 (2000), dismissed by 404 F. Supp. 2d 206, 2005 U.S. Dist. LEXIS 35248 (D.D.C. 2005).

While District of Columbia Human Rights Act generally does not require exhaustion of administrative remedies, there is statutory exhaustion requirement for employees of District of Columbia government. D.C. Code 1981, § 1-2543; D.C. Mun.Reg. § 4-101 et seq. *Hunt v. D.C. Dep't of Corrections*, 41 F.Supp.2d 31, 1999 U.S. Dist. LEXIS 3979 (1999).

Black female fire fighter with District of Columbia Fire Department was not required to exhaust her administrative remedies under District of Columbia Human Rights Act in order to bring federal civil rights action against fire department under federal civil rights stat-

utes, so that three-year limitations period applicable to her civil rights action was not tolled while her claims were filed with District of Columbia Office of Human Rights. 42 U.S.C. §§ 1981, 1983; D.C. Code 1981, §§ 1-2501 et seq., 1-2512, 1-2543. *Deskins v. Barry*, 729 F. Supp. 1, 1989 U.S. Dist. LEXIS 15977 (1989).

Police officer was required to exhaust administrative remedies before bringing claim for discrimination based on sexual orientation and was not entitled to withdraw complaint from Office of Human Rights and file lawsuit prior to decision on merits. D.C. Code 1981, §§ 1-2512, 1-2526, 1-2556(a). *Newman v. District of Columbia*, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

Where District of Columbia employee initially filed employment discrimination complaint with District Office of Human Rights, but then voluntarily withdrew her administrative complaint after failing to reach conciliation agreement, employee thereby failed to exhaust her administrative remedies, and could not subsequently maintain civil action in superior court premised on same employment discrimination. D.C. Code 1981, §§ 1-1512, 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Government employees.

Employment discrimination administrative

remedies provided by statute and administrative order are exclusive remedies available to District of Columbia government employee claiming discrimination in employment, and private right of action under statute authorizing filing of civil action for unlawful discriminatory practice is available only to nongovernment employees. D.C. Code 1981, §§ 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Jurisdiction.

Court of Appeals did not have jurisdiction to review decision of mayor's designee pursuant to statute, though designee was the equal employment opportunity director, over whom court would have jurisdiction if director had been acting in ordinary capacity rather than as mayor's designee. D.C. Code 1981, §§ 1-2543, 1-2554. *Kennedy v. Barry*, 516 A.2d 176, 1986 D.C. App. LEXIS 452 (1986).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexican DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.04. Filing of complaints and mediation.

(a) Any person or organization, whether or not an aggrieved party, may file with the Office a complaint of a violation of the provisions of this chapter, including a complaint of general discrimination, unrelated to a specific person or instance. The complaint shall state the name and address of the person alleged to have committed the violation, hereinafter called the respondent, and shall set forth the substance thereof, and such other information as may be required by the Office. The Director, sua sponte, may investigate individual instances and patterns of conduct prohibited by the provisions of this chapter and may initiate complaints in connection therewith. Any complaint under this chapter shall be filed with the Office within 1 year of the occurrence of the unlawful discriminatory practice, or the discovery thereof, except as may be modified in accordance with § 2-1403.03.

(b) Complaints filed with the Office under the provisions of this chapter may be voluntarily withdrawn at the request of the complainant at any time prior to the completion of the Office's investigation and findings as specified in § 2-1403.05, except that the circumstances accompanying said withdrawal may be fully investigated by the Office.

(c) A mediation program shall be established and all complaints shall be mediated before the Office commences a full investigation. During the mediation the parties shall discuss the issues of the complaint in an effort to reach an agreement that satisfies the interests of all concerned parties. The Office shall grant the parties up to 45 days within which to mediate a complaint. If

an agreement is reached during the mediation process, the terms of the agreement shall control resolution of the complaint. If an agreement is not reached, the Office shall proceed with an investigation of the complaint.

(d) Complaints filed with the Office alleging unlawful discrimination in residential real estate transactions or violations of FHA, shall be served on the complainant and respondent within 5 days of filing, with a notice identifying the alleged discriminatory practice and advising the parties of their procedural rights and obligations under this chapter and FHA. The Office shall refer the complaint for mediation, but shall begin investigating the complaint within 30 days of its filing if the parties fail to reach an agreement.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 304, 24 DCR 6038; Oct. 23, 1997, D.C. Law 12-39, § 2(a), 44 DCR 4856; Apr. 20, 1999, D.C. Law 12-242, § 2(h), 46 DCR 952.)

Prior Codifications. — 1981 Ed., § 1-2544. 1973 Ed., § 6-2284.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-39. — Law 12-39, the "Human Rights Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-143, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings

on June 3, 1997, and July 1, 1997, respectively. Signed by the Mayor on July 18, 1997, it was assigned Act No. 12-143 and transmitted to both Houses of Congress for its review. D.C. Law 12-39 became effective on October 23, 1997.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Accrual of right of action.
Amendment of complaints.
Continuing violation.
Election of remedies.
Estoppel.
Exhaustion of administrative remedies.
Notice.
Pleadings.
Relation back rule.
Statute of limitations.
Waiver.

Accrual of right of action.

Former employee's discrimination and retaliation claims against her former employer under District of Columbia Human Rights Act (DCHRA) accrued on date of her termination, though former employee had earlier received letter advising her that her employment would be considered voluntarily terminated if she did not respond by certain date; former employee had responded to letter by stating she was not voluntarily terminating her employment. D.C. Code 1981, § 1-2544(a). *Stroman v. Blue Cross & Blue Shield Ass'n*, 966 F. Supp. 9, 1997 U.S. Dist. LEXIS 8278 (1997), affirmed without opinion by 159 F.3d 637, 333 U.S. App. D.C. 47, 1998 U.S. App. LEXIS 32466 (1998).

Associate professor's § 1981 discrimination claims against university for refusing request for conversion to tenure track position accrued when she requested conversion, rather than when she previously locked horns with department chair; even if associate professor requested conversion knowing that department chair would discriminate against her, mere threat of such discrimination did not bar her from requesting promotion for which she was qualified. 42 U.S.C. § 1981. *Saunders v. George Washington University*, 768 F. Supp. 854, 1991 U.S. Dist. LEXIS 12611 (1991).

One-year statute of limitations for claims under District of Columbia Human Rights Act (DCHRA) begins to run at time of occurrence of unlawful discriminatory practice, or discovery thereof. D.C. Code 1981, § 1-2544(a). *Paul v. Howard Univ.*, 754 A.2d 297, 2000 D.C. App. LEXIS 116 (2000).

One-year statute of limitations applicable to constructive discharge action brought under the District of Columbia Human Rights Act began to run on date that employee decided to retire and gave employer notice of that decision, rather than on date that retirement became effective for payroll purposes, as any discriminatory act constituting basis of claim had to have occurred before date employee

decided to retire and announced his decision. D.C. Code 1981, §§ 1-2501 et seq., 1-2544(a). *Hancock v. Bureau of Nat'l Affairs*, 645 A.2d 588, 1994 D.C. App. LEXIS 114 (1994).

Limitations period for bringing of cause of action under Human Rights Act begins to run with occurrence or discovery of discriminatory practice, and its applicability ends with filing of complaint with Office of Human Rights. D.C. Code 1981, § 1-2544(a). *Simpson v. District of Columbia Office of Human Rights*, 597 A.2d 392, 1991 D.C. App. LEXIS 266 (1991).

Employees claim of discrimination began to run on date of termination where she did not allege any separate acts of discrimination after that date with respect to the grievance process. D.C. Code 1981, § 1-2544(a). *Jones v. Howard University*, 574 A.2d 1343, 1990 D.C. App. LEXIS 111 (1990).

Amendment of complaints.

Hardship former employee would suffer if motion for leave to amend complaint against former employer for alleged violations of District of Columbia Human Rights Act (DCHRA), by adding individual managers as defendants and claims for disparate treatment against them, were denied outweighed hardship employer would suffer if motion were granted, warranting grant of leave to amend; although granting motion would extend discovery and prolong case, denial would result in statute of limitations precluding claims against managers in subsequent action, and basis for those claims was not discovered until after original complaint was filed. *Smith v. Cafe Asia*, 598 F.Supp.2d 45, 2009 U.S. Dist. LEXIS 13454 (2009).

Continuing violation.

In determining whether plaintiff has asserted viable continuing violation claim under District of Columbia Human Rights Act (DCHRA), court must determine whether actual violation of DCHRA occurred during statutory period and whether discriminatory act either was part of series of related discriminatory acts or was caused by discriminatory system in effect both before and during limitations period. D.C. Code 1981, § 1-2544(a). *Lempres v. CBS Inc.*, 916 F. Supp. 15, 1996 U.S. Dist. LEXIS 2324 (1996).

District court may retain subject matter jurisdiction over claims of employment discrimination occurring prior to the charge filing period if facts as alleged constitute a continuing violation and question of whether violation is continuing must be addressed on case-by-case basis; continuing violation theory is limited to either a series of related acts, one or more of which falls within the limitations period, or maintenance of discriminatory system. Civil Rights Act of 1964, § 701 et seq., as amended,

42 U.S.C. § 2000e et seq. *Webb v. District of Columbia*, 864 F. Supp. 175, 1994 U.S. Dist. LEXIS 13053 (1994).

Absent allegations connecting remote claims, acts of employment discrimination occurring prior to the charge filing period, with the timely ones, continuing violation theory was inapplicable and absent continuing violation theory, district court did not have subject matter jurisdiction over acts of employment discrimination occurring prior to the charge filing period. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq. *Webb v. District of Columbia*, 864 F. Supp. 175, 1994 U.S. Dist. LEXIS 13053 (1994).

Female employee was not entitled to benefit of continuing violations theory to preserve her allegations of past unwelcome conduct of sexual nature in violation of the District of Columbia Human Rights Act based on her present allegations of disparate treatment; her allegations of sexual harassment resulting in hostile and abusive work environment were factually distinct from her allegations of disparate treatment. D.C. Code 1981, § 1-2544(a). *Norman v. Gannett Co.*, 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

Claims under District of Columbia Human Rights Act were not barred by one-year time limit provided by Act, even though initial occurrence of alleged discrimination occurred more than one year prior to filing of action; alleged sex discrimination and retaliation were ongoing behavior, and last incident occurred well within one-year limitation period. D.C. Code 1981, §§ 1-2512, 1-2525, 1-2544. *Ravinskaskas v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

Allegedly discriminatory conduct before limitations period for filing employment discrimination claim with Office of Human Rights under District of Columbia Human Rights Act (DCHRA), i.e., that plaintiff African-American employee's probationary period was longer than any other outside applicant for regional manager position, that plaintiff had to carry heavier load than white regional manager because of personnel shortage, and that, after plaintiff and white regional manager were promoted to sales manager positions the white manager but not plaintiff was informed that company reorganization would eliminate those positions, were unconnected events, and thus, such events were not actionable under continuing violation theory, in plaintiff's action relating to termination, within limitations period, of his employment as sales manager. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

For acts of discriminatory conduct, outside of and within limitations period for filing claim with Office of Human Rights under District of

Columbia Human Rights Act (DCHRA), to be considered continuing in nature, so that acts outside of limitations period are actionable, the discrimination cannot be limited to isolated incidents, but must pervade a series or pattern of events which continue into the filing period. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

To be considered "continuing" in nature, and thus within statute of limitations for claim under District of Columbia Human Rights Act (DCHRA), discrimination may not be limited to isolated incidents, but must pervade a series or pattern of events which continue into filing period. D.C. Code 1981, § 1-2544(a). *Paul v. Howard Univ.*, 754 A.2d 297, 2000 D.C. App. LEXIS 116 (2000).

University and university administrators did not engage in pattern of continuous and ongoing unlawful behavior, so as to permit all alleged discriminatory conduct against unsuccessful female tenure applicant to fall within limitations period for claim under District of Columbia Human Rights Act (DCHRA), where applicant offered, at most, unsupported allegations of a few isolated incidents, such as alleged "Society of Weak Engineers" comment, and when applicant did allege a pattern of conduct, she failed to provide date within one-year statutory period on which any such conduct occurred, nor did she offer any evidence, as opposed to conclusory allegations, that decision to deny tenure was in retaliation for any protected activity on her part. D.C. Code 1981, § 1-2544(a). *Paul v. Howard Univ.*, 754 A.2d 297, 2000 D.C. App. LEXIS 116 (2000).

Single alleged discriminatory act of vendor's failure to close cooperative apartment purchase agreement did not constitute a "continuing violation" of the District of Columbia Human Rights Act which tolled statute of limitations. D.C. Code 1981, § 1-2544(a). *Molovinsky v. Monterey Coop.*, 689 A.2d 531, 1996 D.C. App. LEXIS 305 (1996).

Testing process for Human Immuno-deficiency Virus (HIV) was not "continuing violation" that extended until patient's blood was actually tested, for purpose of determining whether patient's sexual orientation discrimination claim based on testing was barred by Human Rights Act's statute of limitations; patient had neither shown series of related acts, nor pattern of discrimination by hospital. D.C. Code 1981, § 1-2544(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

"Continuing violation" exists, for purpose of extending limitations period under Human Rights Act, where there are series of related acts, one or more of which falls within limitations period, or maintenance of discriminatory system both before and during statutory period.

D.C. Code 1981, § 1-2544(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

To be continuing in nature, for purpose of extending limitations period under Human Rights Act, discrimination may not be limited to isolated incidents, but must pervade series or pattern of events which will continue into filing period. D.C. Code 1981, § 1-2544(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Doctrine of continuing violation was not applicable so as to state claim of retaliatory discharge from one-year limitations provision of Human Rights Act. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

The court adopted a "continuing violation" theory for equal pay discrimination claims, whereby the plaintiff suffers a denial of equal pay with each paycheck that is received; thus, so long as the plaintiff receives some salary payments within one year of filing the complaint, the equal pay claim will not be barred by the one-year statute of limitations for such claims. *Mackey v. Committee for Economic Development*, 126 WLR 1089 (Super. Ct. 1998).

Election of remedies.

District of Columbia Office of Human Rights (DCOHR) dismissed employee's complaint for administrative convenience, such that exception to the election of remedies provision of the District of Columbia Human Rights Act (DCHRA) applied allowing employee to bring DCHRA action against employer in court, where DCOHR deferred jurisdiction over claim that employee had filed initially with Equal Employment Opportunity Commission (EEOC) after EEOC filed a cross-claim with the DCOHR pursuant to worksharing agreement. *Ibrahim v. Unisys Corp.*, 582 F.Supp.2d 41, 2008 U.S. Dist. LEXIS 86722 (2008).

Plaintiff's failure to timely file with EEOC his complaint alleging he was terminated on account of his race required dismissal of his Title VII action even though employee filed his charge with District of Columbia Office of Human Rights concurrently with EEOC, and his claim was timely filed under statute of limitations provided in District of Columbia Human Rights Act; instant case was brought for violation of Title VII, and was not based on violation of District of Columbia Human Rights Act. Civil Rights Act of 1964, § 706(d), as amended, 42 U.S.C. § 2000e-5(e); D.C. Code 1981, §§ 1-2501 et seq., 1-2544. *Harper v. Georgetown Univ.*, 748 F. Supp. 6, 1990 U.S. Dist. LEXIS 14113 (1990).

Professor who filed administrative complaint against university under District of Columbia

Human Rights Act but failed to seek judicial review of adverse determination was not precluded, under doctrine of election of remedies, from seeking judicial redress for claims under that statute based on events that occurred after she filed administrative complaint. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Plaintiff who failed to seek judicial review of administrative finding of no probable cause to believe that a violation of District of Columbia Human Rights Act (DCHRA) had occurred in her employment as university professor was barred by the doctrine of election of remedies from litigating the same DCHRA retaliation claim in court. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Sex discrimination claimant under the District of Columbia Human Rights Act was precluded from bringing suit in superior court, after her prior administrative complaint had been the subject of a probable cause determination by the Office of Human Rights. *D.C. Code* 1981, §§ 1-2544(b), 1-2556. *Anderson v. U.S. Safe Deposit Co.*, 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Claimant, who alleged that he had been discriminated against by his employer and who chose not to file his complaint in court but, rather, to file with Office of Human Rights, lost his right to bring same action in court unless claimant withdrew complaint from Office of Human Rights before administrative decision was rendered, or Office of Human Rights dismissed complaint on grounds of administrative convenience. *D.C. Code* §§ 6-2284, 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Where letter written by Office of Human Rights to claimant, who alleged that he had been discriminated against by his employer, stated that investigation of complaint was completed and apprised complainant of procedure to follow if he desired reconsideration of complaint, and where claimant failed to follow prescribed procedure for reconsideration, Office of Human Rights had not dismissed claim as matter of administrative convenience and claimant was thus precluded from instituting a *de novo* proceeding on same matter in court. *D.C. Code* § 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Estoppel.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before

Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); *D.C. Code* 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Exhaustion of administrative remedies.

Black female fire fighter with District of Columbia Fire Department was not required to exhaust her administrative remedies under District of Columbia Human Rights Act in order to bring federal civil rights action against fire department under federal civil rights statutes, so that three-year limitations period applicable to her civil rights action was not tolled while her claims were filed with District of Columbia Office of Human Rights. 42 U.S.C. §§ 1981, 1983; *D.C. Code* 1981, §§ 1-2501 et seq., 1-2512, 1-2543. *Deskins v. Barry*, 729 F. Supp. 1, 1989 U.S. Dist. LEXIS 15977 (1989).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Pleadings.

Employee was not entitled to amend his complaint to add Title VII claim and District of Columbia Human Rights Act claim because such amendments would be futile; Title VII claim was futile because employee could not establish *prima facie* case and his Human Rights Act claim was futile because it was not brought within one year from date that alleged violation occurred. *Civil Rights Act of 1964*, § 701 et seq., 42 U.S.C. § 2000e et seq.; *D.C. Code* 1981, § 1-2544. *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1996 U.S. App. LEXIS 30826 (C.A.D.C. 1996), writ of certiorari denied by 520 U.S. 1197, 117 S. Ct. 1553, 137 L. Ed. 2d 701, 1997 U.S. LEXIS 2690, 65 U.S.L.W. 3727 (1997).

Registered nurses (RNs) employed in university hospital emergency room (ER) stated plausible hostile work environment sexual harassment claims against hospital under Title VII and District of Columbia Human Rights Act (DCHRA), where they alleged that doctor in charge of ER made "frequent requests for sexual favors," that he improperly touched them, and that he made "inappropriate sexual comments in the workplace"; while allegations were concededly nonspecific, taken in light most favorable to RNs they made it plausible

that they were subjected to that conduct because of their sex and that they found conduct subjectively offensive, RNs alleged that discriminatory conduct occurred nearly every day for over four years, and because alleged harasser had authority over them they plausibly alleged some basis for imputing liability to employer. *Tucker v. Howard Univ. Hosp.*, 764 F.Supp.2d 1, 2011 U.S. Dist. LEXIS 1650 (2011).

In determining whether plaintiff properly invoked Title VII as basis for retaliation claim, Court of Appeals would read plaintiff's pleading as asserting a retaliation claim under Title VII unless such a construction was plainly unreasonable. *Tucker v. Howard Univ. Hosp.*, 764 F.Supp.2d 1, 2011 U.S. Dist. LEXIS 1650 (2011).

Professor's complaint against university fairly invoked Title VII as statutory basis for claim that initial reduction of her salary was in retaliation for protected activity; first paragraph of pleading stated that complaint was filed pursuant to both District of Columbia Human Rights Act (DCHRA) and Title VII, first count was explicitly brought under both Title VII and DCHRA, and invocation exclusively of DCHRA in connection with certain allegations could reasonably be construed to mean that other claims of reprisal were intended to invoke both statutes. *Tucker v. Howard Univ. Hosp.*, 764 F.Supp.2d 1, 2011 U.S. Dist. LEXIS 1650 (2011).

Denial of university professor's motion, brought prior to second trial of her initial Title VII retaliation claim against university, to consolidate with that claim a second retaliation claim arising from events alleged to have occurred after first trial was not abuse of discretion, where discovery in second case had not been completed at time of motion, and over six years had already passed since some of the events giving rise to first action. *Tucker v. Howard Univ. Hosp.*, 764 F.Supp.2d 1, 2011 U.S. Dist. LEXIS 1650 (2011).

Relation back rule.

Employee's Equal Employment Opportunity Commission (EEOC) claim alleging gender discrimination alleged all of the facts necessary to make out a claim under the District of Columbia Human Rights Act (DCHRA) for personal appearance discrimination, and thus the personal appearance claim related back to her original EEOC complaint and was not untimely filed. *Ivey v. District of Columbia*, 949 A.2d 607, 2008 D.C. App. LEXIS 259 (2008).

"Relation back" rule, i.e., that amended complaint relates back to date of original complaint, is founded on premise that once litigation involving a particular core of facts has commenced a defendant is not entitled to the protection afforded by a statute of limitations

against the subsequent assertion of claims arising out of the events described in the original pleadings. Civil Rule 15(c). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

The "relation back" rule does not permit a new cause of action to be set forth in an amended complaint by setting up new matter or changed circumstances arising after the filing of the original complaint and where claimant attempts to allege an entirely different transaction by amendment the new claim is subject to the statute of limitations defense. Civil Rule 15(c). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Where employee was not discharged until approximately two weeks after he filed original complaint charging denial of promotion on basis of race the "relation back" rule was not applicable to save the retaliatory discharge claim, notwithstanding that complaint charging discrimination promotion was timely. Civil Rule 15(c); D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Amended complaint alleging Human Rights Act violations for first time, held time-barred, because it could not relate back to a timely filed complaint merely alleging wrongful discharge since defendants could not have reasonably anticipated allegations of discrimination raised therein. *Sorrels v. Garfinckel, Brooks Bros. Miller & Rhoads*, 111 WLR 845 (Super. Ct.).

Statute of limitations.

When federal statute of limitations does not exist for federal law, federal courts usually look to state law for an analogous statute of limitations; on the other hand, importation of state law in some instances would interfere with federal policy and it would be inappropriate to conclude that Congress would choose to adopt state rules at odds with purpose or operation of federal substantive law, and in those cases, federal courts look for a statute of limitations in federal law. *Crocker v. Piedmont Aviation*, 49 F.3d 735, 1995 U.S. App. LEXIS 4236 (C.A.D.C. 1995), writ of certiorari denied by 516 U.S. 865, 116 S. Ct. 180, 133 L. Ed. 2d 118, 1995 U.S. LEXIS 6125, 64 U.S.L.W. 3244, 152 L.R.R.M. (BNA) 2512 (1995).

Before a federal court will look to federal law for a limitations period for federal substantive law, it must be shown that there is a federal policy that would clearly be frustrated by using state statute of limitation, and there must be a closely analogous federal statute. *Crocker v. Piedmont Aviation*, 49 F.3d 735, 1995 U.S. App. LEXIS 4236 (C.A.D.C. 1995), writ of certiorari denied by 516 U.S. 865, 116 S. Ct. 180, 133 L. Ed. 2d 118, 1995 U.S. LEXIS 6125, 64 U.S.L.W. 3244, 152 L.R.R.M. (BNA) 2512 (1995).

Action filed three years and one day after it accrued was not time-barred under three-year statute of limitations where three-year period ended on a Sunday. Fed.Rules Civ.Proc.Rule 6(a), 18 U.S.C. Banks v. Chesapeake & Potomac Tel. Co., 802 F.2d 1416, 1986 U.S. App. LEXIS 29205 (C.A.D.C. 1986), amended by 42 Fair Empl. Prac. Cas. (BNA) 464 (D.C. Cir. Oct. 30, 1986).

One-year statute of limitations in the District of Columbia Human Rights Act did not apply to claim under 42 U.S.C. § 1983. D.C. Code 1981, § 1-2501 et seq. Banks v. Chesapeake & Potomac Tel. Co., 802 F.2d 1416, 1986 U.S. App. LEXIS 29205 (C.A.D.C. 1986), amended by 42 Fair Empl. Prac. Cas. (BNA) 464 (D.C. Cir. Oct. 30, 1986).

Terminated employee's District of Columbia Human Rights Act (DCHRA) claims were not time-barred, as timely filing charge with Equal Employment Opportunity Commission (EEOC), of which District of Columbia Office of Human Rights (OHR) promptly received copy under existing work-share agreement between federal and local agencies, tolled the one-year limitations period. Ware v. Nicklin Assocs., 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

Three-year statute of limitations on personal injury actions in District of Columbia, rather than one-year statute of limitations provided by District of Columbia Human Rights Act, applied to motorists' Americans with Disabilities Act (ADA) claim against various District of Columbia officials arising out of the investigation of motor vehicle accident. Williams v. Savage, 538 F.Supp.2d 34, 2008 U.S. Dist. LEXIS 17682 (2008).

Wrongful discharge claim, although arising under ERISA interference provision, most closely resembled discrimination claim under District of Columbia Human Rights Act (DCHRA) and that statute's one-year limitations period would thus be borrowed. Kamen v. IBEW, 505 F.Supp.2d 66, 2007 U.S. Dist. LEXIS 59322 (2007).

Filing of administrative complaint with District of Columbia Office of Human Rights (DCOHR) does not toll District of Columbia Human Rights Act (DCHRA) statute of limitations period of one year to file court complaint. Kamen v. IBEW, 505 F.Supp.2d 66, 2007 U.S. Dist. LEXIS 59322 (2007).

Alleged conditions which occurred when employee worked as producer fell outside of statute of limitation for claims brought under District of Columbia Human Rights Act (DCHRA) and could not be considered as part of employee's constructive discharge claims. D.C. Code 1981, § 1-2544(a). Lempres v. CBS Inc., 916 F. Supp. 15, 1996 U.S. Dist. LEXIS 2324 (1996).

Civil actions under District of Columbia Human Rights Act (DCHRA) must be filed within

one year of occurrence of unlawful discriminatory practice or discovery of it. D.C. Code 1981, § 1-2544(a). Lempres v. CBS Inc., 916 F. Supp. 15, 1996 U.S. Dist. LEXIS 2324 (1996).

Statute of limitations for actions under § 1981 is drawn from the most appropriate and analogous state statute of limitations. 42 U.S.C. § 1981. Webb v. District of Columbia, 864 F. Supp. 175, 1994 U.S. Dist. LEXIS 13053 (1994).

Where Title VII plaintiff had reason to believe that discriminatory employment decisions were occurring several years before he filed complaint with District of Columbia Office of Human Rights (OHR), district court would not toll the statute of limitations for filing administrative complaint. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq. Webb v. District of Columbia, 864 F. Supp. 175, 1994 U.S. Dist. LEXIS 13053 (1994).

Female employee's allegation of hostile work environment in violation of District of Columbia Human Rights Act was time barred, where actionable conduct leading to creation of environment occurred over one year before suit was filed; none of incidents relied on by employee that occurred within limitations period was unwelcome conduct of sexual nature resulting in hostile or abusive work environment to continue limitations period, since no reasonable person would feel that such environment was created merely because male supervisor or manager complimented female employee on her appearance or performance of her work, and comment on her golf swing could just as easily have been made to male under same circumstances. D.C. Code 1981, § 1-2544(a). Norman v. Gannett Co., 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

A claim under the District of Columbia Human Rights Act for sexual harassment must be made within one year of date that unwelcome conduct occurred. D.C. Code 1981, § 1-2544(a). Norman v. Gannett Co., 852 F. Supp. 46, 1994 U.S. Dist. LEXIS 6677 (1994).

University's claim that associate professor's § 1981 discrimination claim was subject to District of Columbia's one-year limitations period for intentional torts, rather than three-year limitations period for general torts, was waived by university's failure to argue that limitations period for intentional torts should be used. 42 U.S.C. § 1981; D.C. Code 1981, § 12-301(4, 8). Saunders v. George Washington University, 768 F. Supp. 854, 1991 U.S. Dist. LEXIS 12611 (1991).

Limitations period governing associate professor's § 1981 discrimination claim against university for denial of her requests for conversion to tenure track position was tolled until associate professor's department provided her with definitive rejection of her request. 42 U.S.C. § 1981. Saunders v. George Washington

University, 768 F. Supp. 854, 1991 U.S. Dist. LEXIS 12611 (1991).

Claim for intentional infliction of mental distress was dependent upon and intertwined with claims under District of Columbia Human Rights Act; thus, mental distress claim was also governed by one-year statute of limitations provided by Act. D.C. Code 1981, § 1-2544. *Ravinskas v. Karalekas*, 741 F. Supp. 978, 1990 U.S. Dist. LEXIS 10617 (1990).

Filing of sex discrimination claim with District of Columbia Office of Human Rights did not toll one-year statute of limitations claim against union official under District of Columbia Human Rights Act. D.C. Code 1981, §§ 1-2511, 1-2512, 1-2544(a), 1-2556. *Weiss v. International Brotherhood of Electrical Workers*, 729 F. Supp. 144, 1990 U.S. Dist. LEXIS 902 (1990).

Employment discrimination plaintiff's civil rights claim brought under § 1981 was barred by District of Columbia one-year limitation period for civil rights actions. 42 U.S.C. § 1981; D.C. Code, 1981, § 1-2544(a). *Keller v. Association of American Medical Colleges*, 644 F. Supp. 459, 1985 U.S. Dist. LEXIS 15429 (1985), affirmed by 802 F.2d 1483, 256 U.S. App. D.C. 89, 1986 U.S. App. LEXIS 33727, 42 Fair Empl. Prac. Cas. (BNA) 464 (1986).

The three-year limitation period of D.C. Code 1981, § 12-301(8), is the most appropriate statute of limitations for all Section 1983 claims in the District of Columbia. 42 U.S.C. § 1983. *Hobson v. Brennan*, 625 F. Supp. 459, 1985 U.S. Dist. LEXIS 12724 (1985).

One-year statute of limitations under the District of Columbia Human Rights Act [§ 1-2544(a)], applicable to actions at law as well as administrative proceedings, was suspended during pendency of plaintiff's administrative action, which was concluded by withdrawal of timely administrative complaint to pursue judicial relief, and, hence, claim under that Act was not time barred. D.C. Code 1981, § 1-2544(a). *Blake v. American College of Obstetricians & Gynecologists*, 608 F. Supp. 1239, 1985 U.S. Dist. LEXIS 19788 (1985).

One-year time limitation applicable to administrative proceedings under the District of Columbia Human Rights Act [§ 1-2544(a)] is applicable to actions at law as well. D.C. Code 1981, § 1-2544(a). *Blake v. American College of Obstetricians & Gynecologists*, 608 F. Supp. 1239, 1985 U.S. Dist. LEXIS 19788 (1985).

When former employee filed his first complaint alleging violations under District of Columbia Human Rights Act, case ruling that one year limitation period applies to actions commenced under that Act had already been decided; therefore, that one year statute of limitations applied, and as a result, where employee was discharged more than one year before filing initial complaint, his claim under

that Act was time barred. D.C. Code 1981, §§ 1-2544, 1-2544(a). *Prouty v. National R. Passenger Corp.*, 572 F. Supp. 200, 1983 U.S. Dist. LEXIS 12963 (1983).

Discrimination claims brought by railroad conductor against railroad based on railroad's allegedly unlawful affirmative action plan were not barred due to one-year statute of limitations applicable to actions brought under District of Columbia Human Rights Law where when plaintiff filed his first complaint, District of Columbia's residual three-year statute of limitations was applied to actions brought under Civil Rights Act, since application of one-year statute of limitations was to be prospective only. D.C. Code 1981, § 1-2544(a); 42 U.S.C. § 1981. *Parker v. Baltimore & O. R. Co.*, 555 F. Supp. 1182, 1983 U.S. Dist. LEXIS 19669 (1983).

University employee's sex discrimination, retaliation, and wrongful termination claims under Title VII and District of Columbia Human Rights Act (DCHRA), filed more than two years after his discharge, were time-barred. *Potts v. Howard Univ.*, 240 F.R.D. 14, 2007 U.S. Dist. LEXIS 128 (2007), affirmed in part and reversed in part by, remanded by 258 Fed. Appx. 346, 2007 U.S. App. LEXIS 28652 (D.C. Cir. 2007).

Timely filing by former employee of complaint, alleging national origin discrimination by former employer, with the Equal Employment Opportunity Commission (EEOC) sufficed to toll one-year statute of limitations applicable to court actions alleging discrimination under the District of Columbia Human Rights Act (DCHRA), where D.C. Office of Human Rights (DC OHR) promptly received a copy of the complaint from the EEOC under existing agreement between the federal and local agencies. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Under the District of Columbia Human Rights Act (DCHRA), complaints of sexual harassment filed with the Office of Human Rights (OHR) are governed by DCHRA's one-year period of limitations, rather than the 180-day period applicable to informal interviews with Equal Employment Opportunity (EEO) counselor. *Ivey v. District of Columbia*, 949 A.2d 607, 2008 D.C. App. LEXIS 259 (2008).

When a discrimination plaintiff can show a series of related acts, one or more of which falls within the limitations period for filing claim with Office of Human Rights under District of Columbia Human Rights Act (DCHRA), all of the discriminatory conduct falls within the statute of limitations. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

When plaintiff can show a series of related acts, one or more of which falls within limitations period for claim under District of Colum-

bia Human Rights Act (DCHRA), all discriminatory conduct falls within statute of limitations. D.C. Code 1981, § 1-2544(a). *Paul v. Howard Univ.*, 754 A.2d 297, 2000 D.C. App. LEXIS 116 (2000).

Unsuccessful female tenure applicant's claim that university and university administrators violated District of Columbia Human Rights Act (DCHRA) was time-barred, where applicant had knowledge of alleged discriminatory practices of university and administrators well before one year prior to date that applicant filed suit. D.C. Code 1981, § 1-2544(a). *Paul v. Howard Univ.*, 754 A.2d 297, 2000 D.C. App. LEXIS 116 (2000).

Even assuming the applicability of equitable tolling principles where employer failed to post notice in compliance with District of Columbia Human Rights Act (DCHRA), equitable tolling would not be available to toll DCHRA's one year statute of limitations, where employee failed to file court action within reasonable time after she obtained information necessary to file her complaint; employee waited close to a year from the date on which she became aware of her right to be free of discrimination under DCHRA and two years from the date on which the alleged discrimination occurred before filing suit. D.C. Code 1981, § 1-2522, 1-2544. *East v. Graphic Arts Indus. Joint Pension Trust*, 718 A.2d 153, 1998 D.C. App. LEXIS 189 (1998).

Employee's general knowledge that her termination was improper was enough to require her to seek legal assistance, and employee's failure to seek such advice did not toll the District of Columbia Human Rights Act's (DCHRA) one year statute of limitations under the discovery rule; discovery rule did not apply to case because focus of rule was on when employee gained general knowledge that her firing was wrongful, and not on when she learned of precise legal remedies for firing. D.C. Code 1981, § 1-2544. *East v. Graphic Arts Indus. Joint Pension Trust*, 718 A.2d 153, 1998 D.C. App. LEXIS 189 (1998).

Homosexual patient's claim that Human Immuno-deficiency Virus (HIV) test was given without his informed consent and because of his sexual orientation did not accrue, for purposes of statute of limitations under Human Rights Act, until HIV analysis was actually performed on blood sample. D.C. Code 1981, § 1-2544(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Running of statute of limitations contained in the District of Columbia Human Rights Act for bringing a suit alleging employment discrimination is not stayed during the pendency of an administrative complaint in the Office of

Human Rights; proviso stating that an administrative complainant maintains all rights to bring suit, as if no complaint was filed, makes clear that a complainant who files an administrative complaint and then withdraws it in timely fashion is on no better footing than a complainant who passes up the administrative process and elects to sue. D.C. Code 1981, §§ 1-2544, 1-2556(a). *Anderson v. U.S. Safe Deposit Co.*, 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Commission on Human Rights was not barred from ruling on constructive discharge issue because of requirement that complaints "be filed. . . within one year of the occurrence of the unlawful discriminatory practice," where employee's initial complaint was timely filed and she timely informed Office of Human Rights of termination of her employment and OHR, representing the employee's legal interests, failed to amend complaint in timely manner to include constructive discharge claim. D.C. Code 1981, § 1-2544. *Atlantic Richfield Co. v. District of Columbia Com. on Human Rights*, 515 A.2d 1095, 1986 D.C. App. LEXIS 433 (1986).

One-year limitations period of Human Rights Act applies to administrative proceedings as well as to actions at law based on the Act. D.C. Code 1973, § 6-2284(a). *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

One-year statute of limitations on former employee's claim of national origin discrimination was tolled when Equal Employment Opportunity Commission (EEOC) cross-filed employee's complaint with the District of Columbia Office of Human Rights (OHR); the cross-filing essentially satisfied the requirements of a complaint by providing alleged perpetrator's name and address and outlining alleged discriminatory conduct, and EEOC and OHR had synergistic relationship by which each agreed to act as the other's agent. *Estenos v. PAHO/WHO Federal Credit Union*, 131 WLR 537 (Super. Ct. 2003).

Waiver.

Employer did not waive its right to arbitrate employee's Title VII and District of Columbia Human Rights Act (DCHRA) claims by failing to file motion to compel arbitration within statutes' limitations periods; because employer asserted no claims or counterclaims against employee and its sole purpose in judicial proceeding was to assert its right of arbitration, no arbitrable claim existed prior to employee's filing of complaint. *Martin v. Citibank, Inc.*, 567 F.Supp.2d 36, 2008 U.S. Dist. LEXIS 47720 (2008).

§ 2-1403.05. Investigation.

(a) With the exception of complaints alleging unlawful discrimination in residential real estate transactions brought pursuant to this chapter or the FHA, the Office shall serve, within 15 days of said filing, a copy thereof upon the respondent, and upon all persons it deems to be necessary parties; and shall make prompt investigation in connection therewith.

(b) Within 120 days, after service of the complaint upon all parties thereto, the Office shall determine whether, in accord with its own rules, it has jurisdiction; and if so, whether there is probable cause to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice.

(c) If the Office finds, with respect to any respondent, that it lacks jurisdiction or that probable cause does not exist the Director forthwith shall issue and cause to be served on the appropriate parties, an order dismissing the allegations of the complaint.

(d) The Office shall complete investigations of complaints alleging unlawful discrimination in residential real estate transactions brought pursuant to this chapter or the FHA, within 100 days after filing of the complaint. The Office shall notify the parties in writing of the reasons for not timely completing the investigation, if it is unable to or it becomes impracticable to complete the investigation within 100 days.

(e) The Office may join a person not named as an additional or substitute respondent upon written notice for complaints alleging unlawful discrimination in residential real estate transactions brought pursuant to this chapter or the FHA. The Office, in the notice to the respondent shall explain the basis for determining that the person is properly joined as a respondent.

(f) The complainant, respondent, or an aggrieved person on whose behalf the complaint was filed, for complaints alleging unlawful discrimination in residential real estate transactions or violations of the FHA, may elect to have the claims asserted in the complaint decided in a civil action.

(1) An election of remedies, pursuant to this subsection, shall be made no later than 20 days after the service of a charge, based on a finding of probable cause pursuant to the investigation of the complaint.

(2) The person making the election of remedies shall give notice by certified mail to the Director and to all parties to the complaint.

(g) If a timely election is made pursuant to subsection (f) of this section, the Director shall authorize, not later than 30 days after the election is made, and the Corporation Counsel shall file a civil action on behalf of the aggrieved party in the Superior Court of the District of Columbia. Venue for an action pursuant to this section shall be in the District of Columbia. Any aggrieved party may intervene in this court action. The Court may grant relief pursuant to § 2-1403.16(b) if the court finds that a discriminatory housing practice has occurred or is occurring.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 305, 24 DCR 6038; Apr. 20, 1999, D.C. Law 12-242, § 2(i), 46 DCR 952.)

Section references. — This section is referred to in §§ 2-1403.04 and 2-1403.17.

Prior Codifications. — 1981 Ed., § 1-2545. 1973 Ed., § 6-2285.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Election of remedies.

Estoppel.

Evidence.

Notice.

Review.

Election of remedies.

Where employee of District of Columbia filed discrimination complaint with Office of Human Rights that resulted in finding of probable cause, but District of Columbia did not then issue notice of hearing, employee was justified in raising claim of violation of District of Columbia Human Rights Law directly in federal district court. D.C. Code 1981, §§ 1-2501 et seq., 1-2545, 1-2550. McCormick v. District of Columbia, 554 F. Supp. 640, 1982 U.S. Dist. LEXIS 16682 (1982).

Sex discrimination claimant under the District of Columbia Human Rights Act was precluded from bringing suit in superior court, after her prior administrative complaint had been the subject of a probable cause determination by the Office of Human Rights. D.C. Code 1981, §§ 1-2544(b), 1-2556. Anderson v. U.S. Safe Deposit Co., 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Where letter written by Office of Human Rights to claimant, who alleged he had been discriminated against by his employer, indicated that Office had completed its investigation of the claim and found no probable cause, and where letter was received by claimant prior to his making any effort to withdraw complaint from Office, claimant failed to preserve his right to bring same action in court. D.C. Code §§ 6-2284(b), 6-2296. Brown v. Capitol Hill Club, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Where letter written by Office of Human Rights to claimant, who alleged that he had been discriminated against by his employer, stated that investigation of complaint was completed and apprised complainant of procedure to follow if he desired reconsideration of complaint, and where claimant failed to follow prescribed procedure for reconsideration, Office of Human Rights had not dismissed claim as matter of administrative convenience and claimant was thus precluded from instituting a de novo proceeding on same matter in court.

D.C. Code § 6-2296. Brown v. Capitol Hill Club, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Estoppel.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). Alder v. Columbia Historical Soc., 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Evidence.

Under the Human Rights Act, whenever the Office of Human Rights finds probable cause to believe that the complainant has been the victim of unlawful discrimination, it must conduct a public hearing before a hearing examiner or a panel of one or more members of the Commission. Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Hearsay evidence can serve under some circumstances as substantial evidence upon which to base finding of fact in administrative adjudication, and weight to be accorded that evidence is determined by item's truthfulness, reasonableness, and credibility; among factors to consider in evaluating reliability of hearsay evidence are whether declarant is biased, whether testimony is corroborated, whether hearsay statement is contradicted by direct testimony, whether declarant is available to testify and be cross-examined, and whether hearsay statements were signed or sworn. Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Error by District of Columbia Commission on Human Rights, in premising factual finding on insubstantial evidence, was not prejudicial, no substantial doubt existed that same ultimate finding would have been made with error re-

moved, in light of other testimony presented. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Review.

Although Human Rights Commission, in re-

viewing hearing examiner's proposed decision on claim of racial and sexual discrimination in employment in violation of District of Columbia Human Rights Act, was not limited to determining whether hearing examiner's findings were supported by substantial evidence, Commission decision contrary to hearing examiner's proposed decision had to be remanded to allow Commission to explain its departure from hearing examiner's findings, especially from those relating to witness credibility. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2551 to 1-2554. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

§ 2-1403.06. Conciliation.

(a) If, in the judgment of the Office, the circumstances so warrant, it may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation, or persuasion.

(b) If the Office determines that there exists probable cause to believe that the respondent has engaged or is engaging in an unlawful practice, the parties shall attempt to conciliate the complaint. The Office shall grant the parties up to 60 days within which to reach a conciliation agreement. If the parties fail to execute a conciliation agreement within the time allowed by the Office, the Office shall certify the case to the Commission for a public hearing. The terms of a conciliation agreement may require a respondent to refrain, in the future, from committing specified discriminatory practices, and to take such affirmative action as, in the judgment of the Office, will effectuate the purposes of this chapter; and may include consent, by the respondent, to the entry in court of a consent decree, embodying the terms of the conciliation agreement.

(c) Upon agreement of all parties to a complaint and upon notice to all parties thereto, a conciliation agreement shall be deemed an order of the Commission, and shall be enforceable as such. Except for the terms of the conciliation agreement, employees of the Office shall not make public, without the written consent of the respondent, information concerning conciliation efforts.

(d) Repealed.

(e) The Office shall make public, unless the complainant and respondent agree otherwise and the Director determines that disclosure is not required to further the purpose of this chapter, conciliation agreements alleging unlawful discrimination in residential real estate transactions or violations of the FHA.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 306, 24 DCR 6038; Apr. 9, 1997, D.C. Law 11-198, § 402, 43 DCR 4569; Oct. 23, 1997, D.C. Law 12-39, § 2(b), 44 DCR 4856; Apr. 20, 1999, D.C. Law 12-242, § 2(j), 46 DCR 952; Apr. 12, 2000, D.C. Law 13-91, § 159(c), 47 DCR 520.)

Prior Codifications. — 1981 Ed., § 1-2546.
1973 Ed., § 6-2286.

Effect of amendments. — D.C. Law 13-91

validated a previously made technical correction in subsec. (e).

Temporary Amendment of Section. — For

temporary (225 day) amendment of section, see § 2 of the Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996, (D.C. Law 11-226, Apr. 9, 1997, law notification 44 DCR 2584).

Emergency legislation. — For temporary amendment of section, see § 402 of the Fiscal Year 1997 Budget Support Congressional Ad-journment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 12-2 provided for the application of the act.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and

assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

Legislative history of Law 12-39. — For legislative history of D.C. Law 12-39, see Historical and Statutory Notes following § 2-1403.04.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 13-91. — For Law 13-91, see notes following § 2-1209.06.

CASE NOTES

ANALYSIS

In general.
Notice.

In general.

Office of Human Rights’ (OHR’s) reading of phrase “failure of conciliation efforts,” contained in section of District of Columbia Human Rights Act which required public hearing after failure of conciliation efforts, to mean that complainant was willing to engage in conciliation but respondent either refused to participate or offered settlement that would not remedy discrimination, was not unreasonable; strong policies favored compliance and settlement of discrimination claims, housing discrimination complainant could have chosen to bring discrimination claim in court rather than ad-

ministratively, and broad statutory grant of authority to OHR would have been undermined by leaving with complainant unilateral decision whether to accept make whole offer that in fact would undo discrimination and its effects. D.C. Code, §§ 1-2541(c), 1-2550, 1-2556(a). *Timus v. District of Columbia Dep’t of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.07. Injunctive relief.

If, at any time after a complaint has been filed, the Office believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Office shall certify the matter to the Corporation Counsel, who shall bring, in the name of the District of Columbia, any action necessary to preserve such status quo or to prevent such harm, including the seeking of temporary restraining orders and preliminary injunctions. The appropriate parties shall be notified of such certification and the complainant may initiate independently, or in cooperation with the Corporation Counsel, appropriate civil action to seek a temporary restraining order or preliminary injunction.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 307, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2547. 1973 Ed., § 6-2287.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Limitation of actions.

Notice.

Limitation of actions.

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied to employee's employment discrimination claim against employer. *Potts v. Howard Univ. Hosp.*,

598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.08. Posting of notice of complaint in housing accommodation.

If a finding of probable cause has been made, as to a complaint of discrimination in housing, and the property owner, or his duly authorized agent, will not agree voluntarily to withhold from the market the subject housing accommodations for a period of 10 days from the date of such finding of probable cause, the Office may cause to be posted on the door of said housing accommodations for a period of 10 days from the date of said finding a notice advising that said accommodations are the subject of a complaint before the Office and that prospective transferees will take such housing accommodations at their peril. Any destruction, defacement, alteration or removal of the notice thereof, by the owner or his agents, servants and employees, shall be punishable, upon conviction, by a fine of up to \$300, or by imprisonment for not more than 10 days, or both.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 308, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2548. 1973 Ed., § 6-2288.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days

before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.09. Service of process.

In all cases where the Office is required to effect service, it shall be accomplished by regular, registered, or certified mail, return receipt requested, by electronic mail, or by personal service and shall otherwise be in accordance with rules of the Office regarding service and notice.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 309, 24 DCR 6038; Mar. 14, 2012, D.C. Law 19-112, § 2, 59 DCR 453.)

Prior Codifications. — 1981 Ed., § 1-2549. 1973 Ed., § 6-2289.

Effect of amendments. — D.C. Law 19-112 substituted “regular, registered, or certified mail, return receipt requested, by electronic mail,” for “registered or certified mail, return receipt requested”.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 19-112. — Law

19-112, the “Human Rights Service of Process Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-377, which was referred to the Committee on Aging and Community Affairs. The Bill was adopted on first and second readings on December 6, 2011, and January 4, 2012, respectively. Signed by the Mayor on January 20, 2012, it was assigned Act No. 19-287 and transmitted to both Houses of Congress for its review. D.C. Law 19-112 became effective on March 14, 2012.

CASE NOTES

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days

before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.10. Notice of hearing.

In case of failure of conciliation efforts, or in advance of conciliation efforts, as determined by the Office, and after a finding of probable cause, the Office shall cause to be issued and served in the name of the Commission, a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of such complaint at a public hearing before 1 or more members of the Commission or before a hearing examiner, such hearing to be scheduled not less than 10 days or not more than 30 days after such service and at a place to be specified in such notice. Notice shall be served by registered or certified mail, return receipt requested, or by personal service.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 310, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2550. 1973 Ed., § 6-2290.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

In general.
Notice.

In general.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate

factual issues; and Office’s finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Where employee of District of Columbia filed discrimination complaint with Office of Human Rights that resulted in finding of probable cause, but District of Columbia did not then issue notice of hearing, employee was justified

in raising claim of violation of District of Columbia Human Rights Law directly in federal district court. D.C. Code 1981, §§ 1-2501 et seq., 1-2545, 1-2550. *McCormick v. District of Columbia*, 554 F. Supp. 640, 1982 U.S. Dist. LEXIS 16682 (1982).

Under the Human Rights Act, whenever the Office of Human Rights finds probable cause to believe that the complainant has been the victim of unlawful discrimination, it must conduct a public hearing before a hearing examiner or a panel of one or more members of the Commission. *Ottenberg's Bakers, Inc. v. D.C. Comm'n on Human Rights*, 917 A.2d 1094, 2007 D.C. App. LEXIS 98 (2007).

Phrase "failure of conciliation efforts," contained in section of District of Columbia Human Rights Act which required public hearing after failure of conciliation efforts, was ambiguous, and thus Court of Appeals had to decide whether Office of Human Rights' (OHR's) interpretation of phrase was reasonable in reviewing OHR's decision to dismiss complaint of housing discrimination, where phrase could have been construed to apply only to rejection of settlement offer or refusal to participate in conciliation efforts by complainant, or to apply only to refusal to engage in conciliation or offer or settlement that would not remedy discrimination by respondent. D.C. Code 1981, § 1-2550. *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Office of Human Rights' (OHR's) reading of phrase "failure of conciliation efforts," contained in section of District of Columbia Human Rights Act which required public hearing after failure of conciliation efforts, to mean that complainant was willing to engage in conciliation but respondent either refused to partici-

pate or offered settlement that would not remedy discrimination, was not unreasonable; strong policies favored compliance and settlement of discrimination claims, housing discrimination complainant could have chosen to bring discrimination claim in court rather than administratively, and broad statutory grant of authority to OHR would have been undermined by leaving with complainant unilateral decision whether to accept make whole offer that in fact would undo discrimination and its effects. D.C. Code, §§ 1-2541(c), 1-2550, 1-2556(a). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Where letter written by Office of Human Rights to claimant, who alleged that he had been discriminated against by his employer, stated that investigation of complaint was completed and apprised complainant of procedure to follow if he desired reconsideration of complaint, and where claimant failed to follow prescribed procedure for reconsideration, Office of Human Rights had not dismissed claim as matter of administrative convenience and claimant was thus precluded from instituting a de novo proceeding on same matter in court. D.C. Code § 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.11. Hearing tribunal.

(a) After a complaint has been noticed for hearing, a hearing tribunal consisting of 3 members of the Commission, sitting as the Commission, shall be appointed to make a determination upon such complaint. At the discretion of the Commission, 1 or more hearing examiners may be delegated to hear and report back to the Commission, on any case or question before the Commission.

(b) A hearing examiner may be an employee of the District government or may be selected from a list of qualified hearing examiners prepared by the Commission. Commission members may serve as hearing examiners. Hearing examiners shall be paid on a per diem basis, while actually sitting and hearing a case: Provided, that funds are available for such purpose.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 311, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2551. 1973 Ed., § 6-2291.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

In general.
Notice.

In general.

Although Human Rights Commission, in reviewing hearing examiner's proposed decision on claim of racial and sexual discrimination in employment in violation of District of Columbia Human Rights Act, was not limited to determining whether hearing examiner's findings were supported by substantial evidence, Commission decision contrary to hearing examiner's proposed decision had to be remanded to allow Commission to explain its departure from hearing examiner's findings, especially from those relating to witness credibility. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2551 to 1-2554. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

Employer was entitled to a new hearing on discharged employee's complaint filed with Dis-

trict of Columbia Commission on Human Rights alleging that employee had been unlawfully discharged because of his national origin where, eight months after original hearing was completed, hearing examiner had retired without reporting his findings back to Commission and some credibility issues had to be resolved before Commission could make any decision at all. D.C. Code 1981, § 1-2512. *Stevens Chevrolet, Inc. v. Commission on Human Rights*, 498 A.2d 546, 1985 D.C. App. LEXIS 486 (1985).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexican DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.12. Conduct of hearing.

(a) The hearing shall be conducted in accordance with procedures promulgated pursuant to the Administrative Procedure Act (§ 2-501 et seq.).

(b) The case in support of the complaint shall be presented by an agent or attorney of the Office.

(c) Any Commissioner or hearing examiner, who has participated in the investigation, conciliation or processing of a complaint, or has participated in any decision related to the merits of a complaint, may not sit with a hearing tribunal appointed to make a determination upon such complaint.

(d) Efforts at conciliation by the Office, or the parties, shall not be received in evidence.

(e) If the respondent fails to answer the complaint, the hearing tribunal, or the hearing examiner designated to conduct the hearing, may enter the default and the hearing shall proceed on the basis of the evidence in support of the complaint. Such default may be set aside only for good cause shown, and upon equitable terms and conditions.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 312, 24 DCR 6038.)

Prior Codifications. — 1981 Ed., § 1-2552.
1973 Ed., § 6-2292.

Legislative history of Law 2-38. — For

legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

Estoppel.
Notice.

Res judicata.

Estoppel.

Conclusion by District of Columbia Office of

Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582

F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Res judicata.

Doctrine of administrative res judicata barred employment discrimination plaintiff's claims under Title VII, District of Columbia Human Rights Act [D.C. Code 1981, § 1-2501 et seq.] and 42 U.S.C. § 1981; procedures provided by District of Columbia Commission on Human Rights were essentially equivalent to judicial proceeding, judgment was final, and parties and claims were identical to those brought before agency. *Civil Rights Act of 1964*, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, §§ 1-1509(b), 1-2552 to 1-2554. *Parker v. National Corp. for Housing Partnerships*, 619 F. Supp. 1061, 1985 U.S. Dist. LEXIS 16573 (1985), reversed by 46 Fair Empl. Prac. Cas. (BNA) 1638 (D.C. Cir. June 2, 1987), dismissed by 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380, 48 Fair Empl. Prac. Cas. (BNA) 890 (D.D.C. 1988).

§ 2-1403.13. Decision and order.

(a)(1) If, at the conclusion of the hearing, the Commission determines that a respondent has engaged in an unlawful discriminatory practice or has otherwise violated the provisions of this chapter, the Commission shall issue, and cause to be served upon such respondent, a decision and order, accompanied by findings of fact and conclusions of law, requiring such respondent to cease and desist from such unlawful discriminatory practice, and to take such affirmative action, including but not limited to:

(A) The hiring, reinstatement or upgrading of employees, with or without back pay;

(B) The restoration to the membership in any respondent labor organization, admission to or participation in a program, apprenticeship training program, on-the-job training program or other occupational training or re-training program;

(C) The extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons;

(D) The payment of compensatory damages to the person aggrieved by such practice;

(E) The payment of reasonable attorney fees;

(E-1) The payment of civil penalties, which shall be deposited in the General Fund, according to the following schedule:

(i) In an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior unlawful discriminatory practice;

(ii) In an amount not to exceed \$25,000 if the respondent has been adjudged to have committed 1 other unlawful discriminatory practice during the 5-year period ending on the date of the filing of this charge; and

(iii) In an amount not to exceed \$50,000 if the respondent has been adjudged to have committed 2 or more unlawful discriminatory practices during the 7-year period ending on the date of the filing of this charge; and

(F) The payment of hearing costs, as, in the judgment of the Commission, will effectuate the purposes of this chapter, and including a requirement for a report as to the manner of compliance with such decision and order.

(2) With regard to compensatory damages, civil penalties, and attorneys fees, the Commission shall develop guidelines which shall be submitted to the Council for review prior to implementation.

(b) If, upon all the evidence, the Commission finds that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall issue and cause to be served on the complainant, an order dismissing the complaint as to such respondent.

(c) Whenever a case has been heard by 1 or more hearing examiners who do not have the power to render a final order or decision, the Commissioners, assigned to decide the case, shall serve upon the parties a proposed order or decision, including findings of fact and conclusions of law, with a notice providing that each party adversely affected may file exceptions and present arguments to the Commissioners, on a date not less than 10 days from the date of service of the proposed order or decision.

(d) Findings of fact and conclusions of law shall be supported by, and in accordance with, reliable, probative, and substantial evidence.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 313, 24 DCR 6038; Oct. 23, 1997, D.C. Law 12-39, § 2(c), 44 DCR 4856.)

Section references. — This section is referred to in § 2-1403.16.

Prior Codifications. — 1981 Ed., § 1-2553. 1973 Ed., § 6-2293.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-39. — For legislative history of D.C. Law 12-39, see Historical and Statutory Notes following § 2-1403.04.

Editor's notes. — Compensatory damages and attorneys' fees guidelines approved: Pursuant to Resolution 4-637, the "Commission on

Human Rights Compensatory Damages and Attorneys' Fees Approved Resolution of 1982", effective October 19, 1982, the Council approved the proposed guidelines concerning compensatory damages and attorneys' fees which were transmitted from the Commission to the Council on May 10, 1982.

Compensatory damages, civil penalties, and attorney's fees approved: Proposed Resolution 12-1237 (R12-838), the "District of Columbia Commission on Human Rights Compensatory Damages, Civil Penalties, and Attorneys' Fees Approval Resolution of 1998", was deemed approved, effective December 15, 1998.

CASE NOTES

ANALYSIS

Admissibility of evidence.

Attorneys' fees.

Construction with federal law.

Costs.

Damages.

Discretion of court.

Duty to mitigate damages.

Estoppel.

Exhaustion of administrative remedies.

Notice.

Remedies.

Res judicata.

Review.

Sufficiency of evidence.

Admissibility of evidence.

Even if District of Colombia had objected to admission of report in which Department of Human Rights and Local Business Development concluded that there was probable cause to believe that metropolitan police department had violated District of Columbia Human Rights Act with respect to its treatment of Hispanic police officers, report was admissible as admission by party opponent, in Hispanic former officer's employment discrimination and retaliation action against District under Title VII and District of Columbia Human Rights Act; report was statement by "person" authorized by District to make statement concerning subject matter of officer's complaint. *Medina v.*

Dist. of Columbia, 718 F.Supp.2d 34, 2010 U.S. Dist. LEXIS 60700 (2010), reversed by, remanded by 643 F.3d 323, 395 U.S. App. D.C. 409, 2011 U.S. App. LEXIS 13389, 112 Fair Empl. Prac. Cas. (BNA) 1109 (2011).

Attorneys' fees.

Remand was necessary for recalculation of attorney fees to be awarded to former employee under the District of Columbia Human Rights Act (DCHRA), where only rationale offered by district court for its 65% reduction in former employee's presettlement-offer fees was that jury awarded former employee \$9,000 of her requested \$20,000 damages in backpay and lost benefits on her DCHRA retaliatory discharge claim and that former employee's breach of contract claim was unsuccessful and redundant. D.C. Code 1981, §§ 1-2553(a)(1)(E), 1-2556(b). *Goos v. National Ass'n of Realtors*, 68 F.3d 1380, 1995 U.S. App. LEXIS 30961 (C.A.D.C. 1995).

Most critical factor in determining reasonableness of award of attorney fees is degree of success obtained, and in assessing "degree of success," court must determine, first, whether plaintiff failed to prevail on claims which were unrelated to those on which plaintiff succeeded and, second, whether level of success achieved makes hours reasonably expended a satisfactory basis for making fee award. D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of Realtors*, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

Related claims are treated differently from unrelated claims, for purposes of assessing attorney fees; if claims are unrelated, fact finder should prevent claimant from piggybacking fees incurred for losing claims onto winning issues, but if claims are related, fact finder should focus on overall degree of success achieved, rather than try to determine number of hours spent on each claim. D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of Realtors*, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

"Related claims" are claims which share common core of facts, for purposes of determining whether attorney fee award to claimant who has not been completely successful should be based on number of hours spent on each claim or on overall degree of success achieved. D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of Realtors*, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

In determining hourly rate of attorney fees to award lawyer who represented real estate agent in successful claim under Human Rights Act, lawyer was entitled to hourly rate specified in contract rather than prevailing market rate, absent evidence that contractual rate was discounted to reflect noneconomic factors. D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of*

Realtors, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

Court had discretion to reduce amount of attorney fees awarded by 50% to reflect "limited success" of real estate agent who received jury verdict of \$9,000 in claim for dismissal in violation of Human Rights Act, where agent originally sought damages in excess of \$1.5 million. D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of Realtors*, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

Court could not reduce presummary judgment attorney fees awarded to real estate agent who prevailed on claim under Human Rights Act but lost on her claim for breach of employment contract, where both claims focused on single factual issue of whether employer dismissed agent in retaliation for her refusal to dismiss another employee; claims were not "substantially distinct." D.C. Code 1981, § 1-2553. *Goos v. National Ass'n of Realtors*, 997 F.2d 1565, 1993 U.S. App. LEXIS 18569 (C.A.D.C. 1993).

In awarding costs, evidentiary hearing was not required to resolve dispute between plaintiff's attorneys over credit for time spent on tasks in case, where defendant had long been aware of dispute but delayed requesting evidentiary hearing, and instead recommended cutting number of hours claimed by one of plaintiff's attorneys. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Appropriate hourly rate for attorney fee award under District of Columbia's Human Rights Act, for attorney who lacked established billing history, was \$305, based on prevailing market rates as determined through use of United States Attorney's Office matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney fees would be awarded at current rates for entire period of litigation under District of Columbia's Human Rights Act to compensate for six-year delay in payment. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney did not have established billing rate of \$150 per hour as claimed, and instead fees would be awarded pursuant to attorney fee matrix at rate of \$250 per hour in suit under District of Columbia's Human Rights Act, despite her public interest service and limited billings made. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Lawyer's experience as salaried employee in public interest offices were to be taken into consideration in determining prevailing market rates for her services through use of attorney fee matrix, in suit under District of Colum-

bia's Human Rights Act, absent any evidence that her public interest work commanded different salaries than those charged on matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney would be awarded compensation for his performance of administrative tasks at rate of \$80 per hour, rather than at rate of \$60 per hour, in suit under District of Columbia's Human Rights Act, where \$80 rate was awarded in another recent case and defendant did not state in opposition why \$60 rate was more appropriate. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

In awarding attorney fees under District of Columbia's Human Rights Act, district court would reduce claimed hours by 10% to reflect insufficient detail of some of counsel's records and conflicting and contradictory nature of some fee requests. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fee applicants are entitled to reasonable attorney fees expended pursuing fee award under the District of Columbia's Human Rights Act, which includes fees expended not only in preparing reply on fee issue, but in preparing fee application and supplemental reply. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney failed to demonstrate established billing history entitling him to recover attorney fees at rate of \$400 per hour under the District of Columbia's Human Rights Act, where those clients who paid him \$400 per hour did so only after he promised that total bill would be no more than a fixed sum, and other evidence of billing either involved small and isolated incidents or involved billing that was too recent to be subject to discovery. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fact that counsel took employee's racial and sexual discrimination case on contingency did not entitle them to requested 200% enhancement of lodestar amount of attorney fees under District of Columbia Human Rights Act; rules governing determination of federal fee awards govern awards under Act, and such enhancements are not permitted under federal fee-shifting statutes. D.C. Code 1981, §§ 1-2553(a), 1-2556(b). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

District of Columbia Human Rights Act does not require courts to award reasonable attorney fees to prevailing parties, but rather, confirms court's discretionary authority over attor-

ney fee applications. D.C. Code 1981, §§ 1-2501 et seq., 1-2553, 1-2553(a)(1), 1-2556, 1-2556(b). *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Attorney was not entitled to fees for time spent on claim alleging violation of Human Rights Act (DCHRA), where, although jury returned verdict in plaintiff's favor, judgment was reversed on appeal based on insufficient evidence of discriminatory intent on the part of defendant. *Brandywine Apts., LLC v. McCaster*, 964 A.2d 162, 2009 D.C. App. LEXIS 10 (2009).

The Court of Appeals would not consider former employee's claim that trial court improperly denied supplemental attorney fees incurred in preparing request for attorney fees, in context of action brought under District of Columbia Human Rights Act, where employee had supplemented her request in trial court to address those fees and trial court had not had opportunity to rule on supplement at time of appeal. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

Trial court could not consider statement in former employee's settlement offer to employer that attorney fees logged at that time were \$809,000.00 as grounds for finding that request for fees of \$1,179,481.50 was unreasonable because there was minimal litigation between date of settlement offer and request, and thus, reduction of 8% from attorney fees request on that basis was abuse of discretion, in context of action brought under District of Columbia Human Rights Act. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

In reducing an attorney fee request of a party who prevailed on less than all of her claims in an action brought under the District of Columbia Human Rights Act, it is not for the trial court to justify each dollar or hour deducted from the total submitted by counsel, but counsel's burden to prove and establish the reasonableness of each dollar, each hour, above zero. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

If a plaintiff in an action brought under the District of Columbia Human Rights Act has achieved only partial or limited success, the product of hours reasonably expended by her attorneys on the litigation as a whole times a reasonable hourly rate may be an excessive amount to award in attorney fees. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

A trial court's decision to reduce an award of attorney fees in an action brought under the District of Columbia Human Rights Act based on a finding that a party prevailed on less than all her claims is a matter to be decided on a case-by-case basis. *Lively v. Flexible Packaging*

Ass'n, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

Trial court had discretion to reduce attorney fees in favor of former employee by 25% in action brought under District of Columbia Human Rights Act based on finding that employee prevailed on only one of four claims submitted to jury. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

Award of attorney fees in action brought under District of Columbia Human Rights Act calculated under Laffey Matrix were appropriately based on rates for attorneys at experience level attained at time work was performed, not at time petition for attorney fees was filed. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

The goal in awarding attorney fees in civil rights cases is to attract competent counsel for these cases, but not to provide them with windfalls. *Lively v. Flexible Packaging Ass'n*, 930 A.2d 984, 2007 D.C. App. LEXIS 551 (2007).

Former employee was entitled to statutory award of attorney fees, even though punitive damages award against employer was excessive, where jury's finding of liability for statutory retaliation was sustained, and evidence supported some award of punitive damages. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Former employee's age discrimination suit was not "pending" in the superior court when amended rule requiring motion for attorney fees to be filed and served no later than 14 days after entry of judgment became effective, and thus, trial court should have considered employee's motions for attorney fees under previous version of rule, even though his motion to extend time to file cross-appeal had not been resolved; motion to extend was not in nature of a motion which would toll the time for filing notice of appeal. *Breiner v. Daka, Inc.*, 806 A.2d 180, 2002 D.C. App. LEXIS 508 (2002).

Determination on whether former employee's delay in filing motion for attorney fees was due to excusable neglect should take into account the reasons for delay, prejudice to the defendant, the sizeable punitive award in his age discrimination case, and the goal of awarding attorneys' fees to promote the public interest by ensuring that private citizens have the means to enforce anti-discrimination statutes. *Breiner v. Daka, Inc.*, 806 A.2d 180, 2002 D.C. App. LEXIS 508 (2002).

Fact that employee waived, on remand, issue of back pay in employment discrimination action did not reduce employee's overall attorney fee award; back pay claim was just part of employee's claims for damages resulting from discriminatory treatment, including damages for humiliation, embarrassment, and indignity associated with the firing. *Natural Motion by Sandra, Inc. v. District of Columbia Comm'n on*

Human Rights, 726 A.2d 194, 1999 D.C. App. LEXIS 63 (1999).

Plaintiff is entitled to reasonable attorney's fees as the prevailing party although the jury awarded no damages. *Best v. Howard Univ.*, 114 WLR 2689 (Super. Ct.).

In an action under the Human Rights Act, wherein the jury awarded plaintiffs compensatory and punitive damages for sex discrimination in the form of harassment and retaliation, the court granted attorneys' fees at the rate requested. *Drake v. Henkels & McCoy, Inc.*, 125 WLR 433 (Super. Ct. 1997).

Construction with federal law.

Absent any claim by employee for compensatory damages, promotion and back pay, purported disparity in available remedies under the human rights law and Title VII of the Civil Rights Act of 1964 made no difference to a determination that employee's sexual discrimination and retaliation claims were cognizable under Title VII and that thus, employee's claims did not constitute a "contested case," for purposes of judicial review of decision of the city administrator affirming dismissal of employee's claims by the Director of Equal Employment Opportunity. D.C. Code 1981, §§ 1-1502(8)(A), 1-1510(a), 1-2553(a)(1)(D); Civil Rights Act of 1964, §§ 701 et seq., 703(a)(1), 704(a), as amended, 42 U.S.C. §§ 2000e-1 et seq., 2000e-2(a)(1), 2000e-3(a). *Lamont v. Rogers*, 479 A.2d 1274, 1984 D.C. App. LEXIS 459 (1984).

Costs.

Fact that posttraumatic stress disorder claim was unsuccessful did not preclude awarding as costs fee paid to expert for his opinion on posttraumatic stress disorder and costs related to expert's deposition, where expert's deposition testimony also formed part of basis for plaintiff's other successful claim of intentional infliction of emotional distress. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fees in excess of the amount of damages recovered are not necessarily unreasonable and need not be proportionate to those damages. *Best v. Howard Univ.*, 114 WLR 2689 (Super. Ct.).

Damages.

Award of \$180,000 in damages to Hispanic former metropolitan police officer in officer's employment discrimination and retaliation action against District of Columbia under Title VII and District of Columbia Human Rights Act was not excessive; employee put forth sufficient evidence of actual damages, and, contrary to District's contention, officer was not awarded double recovery. *Medina v. Dist. of Columbia*, 718 F.Supp.2d 34, 2010 U.S. Dist. LEXIS 60700 (2010), reversed by, remanded by 643 F.3d 323,

395 U.S. App. D.C. 409, 2011 U.S. App. LEXIS 13389, 112 Fair Empl. Prac. Cas. (BNA) 1109 (2011).

Money damages contemplated by District of Columbia Human Rights Act were not ancillary to equitable relief, but were legal remedy, and, therefore, could be recovered in jury trial authorized by Seventh Amendment which gives right to jury trial in suits at common law. D.C. Code 1981, § 1-2553(a)(1)(D); U.S. Const. Amend. 7. *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

District of Columbia Human Rights Act, which permits court to order appropriate relief, including, but not limited to, compensatory damages, authorizes award of punitive damages for employment discrimination. D.C. Code 1981, §§ 1-2512, 1-2553(a), (a)(1)(D), 1-2556(b). *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Damages in excess of \$400 per defendant under the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., is a specialized form of compensatory damages, rather than punitive damages. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

In action brought by former employee against employer alleging sex discrimination and retaliatory discharge in violation of the District of Columbia Human Rights Act, D.C. Code 1981, § 1-2501 et seq., award of \$200,000 in punitive damages had no basis under the Act. *Thompson v. International Asso. of Machinists & Aerospace Workers*, 614 F. Supp. 1002, 1985 U.S. Dist. LEXIS 17274 (1985).

Upon adequate showing of discrimination, party seeking recovery for discriminatory acts engaged in by private employer or other private entity is entitled to recover for embarrassment and humiliation, but not necessarily for pain and suffering and emotional distress. D.C. Code 1981, § 1-2553(a)(1). *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

In order to recover expenses incurred for pain and suffering and emotional distress, complainant alleging discrimination on part of private employer is required to present sufficient evidence linking his present mental condition to discriminatory act. D.C. Code 1981, § 1-2553(a)(1). *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Substantial evidence would allow finding by Commission of Human Rights that homosexual hospital patient was not entitled to damage award for pain and suffering due to handicap discrimination resulting from hospital's exclusion of patient from psychiatric unit based upon

perception of Human Immuno-deficiency Virus (HIV) infection, where evidence did not link patient's psychological and mental problems to his exclusion from psychiatric unit, but, rather, evidence showed that patient had made previous suicide attempts, had been involved in counseling since early age, had continuing drug and alcohol problems, and had suffered from depression and mood swings prior to his hospitalization. D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Police regulation authorizing Commission on Human Rights to make recommendations for correction of illegal employment practice with notice that, if practice is not corrected within 15 days of service of conclusion and recommendations, matter will be referred to corporation counsel for enforcement does not authorize award of damages and counsel fees. D.C. Code § 1-226. *Newsweek Magazine v. District of Columbia Com. on Human Rights*, 376 A.2d 777, 1977 D.C. App. LEXIS 444 (1977).

Given specific mandate of city council in enacting new regulation empowering Commission of Human Rights in employment discrimination cases to award money damages and counsel fees, but providing that any regulation superseded by provisions of new regulation shall remain in full force and effect for purpose of any administrative proceeding pending at effective date of new regulation, prior regulation which failed to empower Commission with power to award money damages and counsel fees and which was in effect at time of filing of sex discrimination complaint and hearing thereon governed decision of Commission as to that complaint. *Communications Workers of America v. District of Columbia Com. on Human Rights*, 367 A.2d 149, 1976 D.C. App. LEXIS 445 (1976).

Portion of order of the Commission on Human Rights which awarded to black complainant, who had been denied an apartment because of her race, damages in the amount of \$950 as compensation for humiliation and mental anguish and for out-of-pocket expenses was unauthorized by regulation authorizing the Commission "to take such affirmative action as will effectuate the purposes of this Article," despite contention that the monetary award was mere incidental relief. D.C. Code §§ 1-224, 1-224a, 1-226. *Mendota Apartments v. District of Columbia Com. on Human Rights*, 315 A.2d 832, 1974 D.C. App. LEXIS 379 (1974).

The jury is entitled to include a sum for emotional distress and humiliation that plaintiff suffered as a result of her wrongful termination; recovery for damages is not limited to a back pay determination, but may include compensatory damages in the normal tort sense, and in appropriate circumstances, punitive

damages may even be recovered. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Compensatory damages and punitive damages are not merely ancillary under an equitable relief scheme in the District of Columbia Human Rights Act, but are coequal and significant aspects of relief to which a plaintiff is entitled. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

As § 1-2556 authorizes a court to grant relief in actions under the Human Rights Act beyond the relief described in subsection (a) of this section, an award of punitive damages in an egregious case of unlawful discrimination would be justified. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Discretion of court.

Trial court abused its discretion when it reduced attorney fees award to former employee, who had prevailed on her sexual harassment/hostile work environment and retaliatory discharge claims against former employer and employer's officers under the District of Columbia Human Rights Act (DCHRA), by three-eighths because only three of employee's original counts had been submitted to the jury and by an additional 25 percent because employee prevailed against only four of the five defendants, as the court's mathematical approach provided little aid in determining what were reasonable fees; proof of the facts underlying the dismissed subterfuge and housing discrimination claims were related to employee's claims for retaliation and related damages, and little additional effort had been required to attempt to prove employee's unsuccessful claims against the fifth defendant. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

Trial court abused its discretion when it reduced attorney fees award to former employee, who had prevailed on her sexual harassment/hostile work environment and retaliatory discharge claims against former employer and employer's officers under the District of Columbia Human Rights Act (DCHRA), based on the court's perception that the number of attorneys who worked on employee's case was excessive and the elimination of fees claims by all but two of employee's attorneys, as the elimination of hours did not purport to consider whether the work done by the other attorneys had been duplicative or redundant, and court relied on the fact that counsel for defendants had claimed fewer hours for similar tasks. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

Trial court did not abuse its discretion by finding former employer, former employer's officers and former employee's manager jointly and severally liable for attorney fees awarded

to former employee who prevailed in sexual harassment/hostile work environment and retaliatory discharge action under the District of Columbia Human Rights Act (DCHRA), as the liability of the defendants arose out of a common nucleus of facts and issues, officers collaborated in a sham investigation of employee's complaints that manager had sexually harassed her, and manager was present when executive vice-president presented the results of the sham investigation to employee. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

Duty to mitigate damages.

Unlawfully discharged nursing assistant did not exercise reasonable diligence in seeking alternative employment, in view of her testimony that during one and one-half years in which she was unemployed she had interviewed for only two nursing assistant positions and had not sought employment in any other capacity. *D.C. Code 1981, § 1-2501 et seq. Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Estoppel.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); *D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed)*. *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Exhaustion of administrative remedies.

Employee may file suit in superior court for substantial damages, including punitive damages, for sexual harassment in violation of Human Rights Act without having to exhaust administrative remedies through Office of Human Rights. *D.C. Code 1981, §§ 1-2553(a)(1), 1-2556*. *Estate of Underwood v. National Credit Union Admin.*, 665 A.2d 621, 1995 D.C. App. LEXIS 168 (1995).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexican DC, LLC*, 582

F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Remedies.

Employee, who was full-time freelance graphic artist discharged due to racial discrimination in violation of District of Columbia Human Rights Act, was not entitled to reinstatement; employee's former position no longer existed due to general layoff five months after his discharge, and, even had he not been discharged, he was unlikely to have been promoted to position which survived layoff. D.C. Code 1981, § 1-2553(a). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Ordinarily, victim of discriminatory discharge is entitled to receive back pay, i.e., the salary that he would have received from employer but for unlawful discriminatory acts. *Natural Motion by Sandra, Inc. v. District of Columbia Comm'n on Human Rights*, 687 A.2d 215, 1997 D.C. App. LEXIS 2 (1997).

Back pay award should equal salary employment discrimination plaintiff would have received from time of violation until date on which District of Columbia Commission on Human Rights issued its final order, minus plaintiff's actual interim earnings or amounts he would have earned had he diligently sought other work. *Natural Motion by Sandra, Inc. v. District of Columbia Comm'n on Human Rights*, 687 A.2d 215, 1997 D.C. App. LEXIS 2 (1997).

Ordinarily victim of discriminatory discharge is entitled to receive back pay, i.e., salary that she would have received from employer but for unlawful discriminatory acts; back pay award should equal salary complainant would have received from time of violation until date on which District of Columbia Commission of Human Rights issued its final order, minus complainant's actual interim earnings or amounts she would have earned had she diligently sought other work. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Regulation proscribing discrimination in employment and providing that upon finding of discrimination respondent is to be served with conclusions and recommendations for correction of illegal practice did not empower Commission of Human Rights upon finding of discrimination to award money damages and counsel fees and to order affirmative action plan. *Communications Workers of America v. District of Columbia Com. on Human Rights*, 367 A.2d 149, 1976 D.C. App. LEXIS 445 (1976).

Commission on Human Rights had authority, on finding that complainant was refused an apartment because she was black, to require

apartment owners not only to cease and desist from discriminatory practices but also to add in all advertisements of their apartments language which would show them to be open to all regardless of race, color, religion or national origin and to require report to the Human Rights Office every six months of all changes in occupancy of the apartments. *Mendota Apartments v. District of Columbia Com. on Human Rights*, 315 A.2d 832, 1974 D.C. App. LEXIS 379 (1974).

Res judicata.

Doctrine of administrative res judicata barred employment discrimination plaintiff's claims under Title VII, District of Columbia Human Rights Act [D.C. Code 1981, § 1-2501 et seq.] and 42 U.S.C. § 1981; procedures provided by District of Columbia Commission on Human Rights were essentially equivalent to judicial proceeding, judgment was final, and parties and claims were identical to those brought before agency. *Civil Rights Act of 1964*, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, §§ 1-1509(b), 1-2552 to 1-2554. *Parker v. National Corp. for Housing Partnerships*, 619 F. Supp. 1061, 1985 U.S. Dist. LEXIS 16573 (1985), reversed by 46 Fair Empl. Prac. Cas. (BNA) 1638 (D.C. Cir. June 2, 1987), dismissed by 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380, 48 Fair Empl. Prac. Cas. (BNA) 890 (D.D.C. 1988).

Review.

Although Commission on Human Rights' scope of review of hearing examiner's proposed decision is not limited to determination of whether his findings are supported by substantial evidence, when Commission rejects hearing examiner's findings or substitutes its own credibility findings for those of examiner, it must specify its reasons for doing so. D.C. Code 1981, §§ 1-2550, 1-2553(c). *American University v. District of Columbia Comm'n on Human Rights*, 598 A.2d 416, 1991 D.C. App. LEXIS 287 (1991).

Sufficiency of evidence.

Evidence was sufficient to establish that manager's sexual harassment of former employee had caused her emotional injury, in trial of former employee's sexual harassment/hostile work environment, retaliatory discharge, and negligent hiring, training and supervision action against employer, manager and employer's officers; former employee testified to the indignity and distress she experienced from manager's repeated sexual advances or innuendos, employee's friend testified that employee was agitated and upset when the unwanted advances were taking place, and employee's psychiatrist testified that psychosocial stressors at work including employee's ability to work with her manager contributed to employee's diffi-

culty sleeping, trouble concentrating and loss of appetite. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

§ 2-1403.14. Judicial review.

Any person suffering a legal wrong, or adversely affected or aggrieved by an order or decision of the Commission in a matter pursuant to the provisions of this chapter, is entitled to a judicial review thereof, in accordance with § 2-510, upon filing, in the District of Columbia Court of Appeals, a written petition for such review.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 314, 24 DCR 6038.)

Section references. — This section is referred to in § 2-1403.15.

Prior Codifications. — 1981 Ed., § 1-2554. 1973 Ed., § 6-2294.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

ANALYSIS

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Damages.

Even assuming that compensatory damages were available to public employees in District of Columbia under Mayor's Order governing public employees' rights under District of Columbia Human Rights Act (DCHRA), Court of Appeals would not disturb hearing examiner's determination firefighter discharged in violation of DCHRA was not entitled to compensatory damages and related attorney fees, on basis that meager record did not support such recoveries. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Decisions subject to review.

Some agency action, including dismissal of discrimination complaint under statute providing Office of Human Rights (OHR) with discretion to dismiss complaints based upon administrative convenience, may be unreviewable by

Court of Appeals, even though it may erroneously deprive complainant of trial-type administrative hearing. D.C. Code 1981, §§ 1-1502(8), 1-2556(a). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Determination of Office of Human Rights that there was no probable cause to believe that Human Rights Act had been violated was subject to judicial review. D.C. Code 1981, §§ 1-1510(a), 1-2554. *Simpson v. District of Columbia Office of Human Rights*, 597 A.2d 392, 1991 D.C. App. LEXIS 266 (1991).

A discriminatory employment practices proceeding brought by a District of Columbia employee is not a "contested case" within meaning of the Administrative Procedure Act, and hence, is not subject to direct review by District of Columbia Court of Appeals; following enactment of Equal Employment Opportunity Act of 1972 to include government employees a District employee has the right to bring a civil action in federal court following pursuit of his administrative remedies through the appropriate local and federal commissions. D.C. Code §§ 1-1501 et seq., 1-1502(8); Civil Rights Act of 1964, §§ 701 et seq., 703, 706(a, b, e) as amended 42 U.S.C. §§ 2000e et seq., 2000e-5(b, c), (f)(1). *O'Neill v. District of Columbia Office of Human Rights*, 355 A.2d 805, 1976 D.C. App. LEXIS 521 (1976).

Election of remedies.

If the District of Columbia Office of Human Rights (DCHR) Director's decision that probable cause to credit sexual harassment complaint does not exist is affirmed, the complainant's only recourse is to bring the action in the District of Columbia Superior Court. *Long v.*

District of Columbia, 3 F.Supp.2d 1477, 1998 U.S. Dist. LEXIS 9229 (1998), affirmed by 194 F.3d 174, 338 U.S. App. D.C. 384, 1999 U.S. App. LEXIS 33508 (1999).

Where employee withdrew discrimination complaint which he had filed with District of Columbia office of human rights, he was entitled to maintain judicial action. D.C. Code 1981, §§ 1-2501 et seq., 1-2554, 1-2556. Held v. National R. Passenger Corp., 101 F.R.D. 420, 1984 U.S. Dist. LEXIS 20167 (1984).

Professor who filed administrative complaint against university under District of Columbia Human Rights Act but failed to seek judicial review of adverse determination was not precluded, under doctrine of election of remedies, from seeking judicial redress for claims under that statute based on events that occurred after she filed administrative complaint. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Plaintiff who failed to seek judicial review of administrative finding of no probable cause to believe that a violation of District of Columbia Human Rights Act (DCHRA) had occurred in her employment as university professor was barred by the doctrine of election of remedies from litigating the same DCHRA retaliation claim in court. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Housing discrimination complainant who suffered dismissal of complaint by Office of Human Rights (OHR) on grounds of administrative convenience could file original complaint in superior court or seek review in superior court, and if superior court affirmed, seek review in Court of Appeals. D.C. Code 1981, §§ 1-2556(a), 11-721(a)(1). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Where one opts to file a complaint with the District of Columbia Office of Human Rights, he or she generally may not also file a complaint in court; conversely, where a person opts to file an unlawful discriminatory practice suit in court, such person is barred from filing thereafter an identical complaint with OHR; however, where OHR dismisses a complaint on grounds of administrative convenience, or where the complainant withdraws his complaint before an administrative decision is rendered, such person retains the right to file a complaint in court. D.C. Code §§ 6-2284, 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Evidence.

Remand to Commission of Human Rights, which denied damages for handicap discrimination based upon perception of Human Immuno-deficiency Virus (HIV) infection, was warranted when it was unclear whether Com-

mission concluded that there must be reliable evidence to establish that homosexual patient was humiliated, which conclusion would be contrary to regulation, or whether Commission concluded that reliable evidence was required to enable Commission to determine amount of damage award, which conclusion would be consistent with regulation. D.C. Code 1981, § 1-2519(a). *John Doe v. District of Columbia Com. on Human Rights*, 624 A.2d 440, 1993 D.C. App. LEXIS 93 (1993).

Erroneous imposition by District of Columbia Commission on Human Rights on employer of greater burden of persuasion, rather than of production, regarding articulation of legitimate nondiscriminatory reason for disparate treatment of black employees did not require reversal in employment discrimination case, as Commission's finding of pretext had sufficient support on record as whole. D.C. Code 1981, § 1-2501 et seq. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Exhaustion of administrative remedies.

Failure to exhaust administrative remedies ordinarily bars a plaintiff from proceeding on her employment discrimination claims in court. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Department of Labor employee fully exhausted her administrative remedies with respect to her employment discrimination grievances, as required to bring action under Title VII against DOL, where she timely appealed arbitrator's dismissal of her Equal Employment Opportunity (EEO) complaints, and EEO failed to issue a decision on her appeal within 180 days of filing of appeal. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Any plaintiff, not just employees of District of Columbia, must exhaust administrative procedures promulgated by mayor before bringing suit under District of Columbia Human Rights Act (DCHRA) against District, its agencies, or officials. *Armstrong v. D.C. Pub. Library*, 154 F.Supp.2d 67, 2001 U.S. Dist. LEXIS 12585 (2001).

While District of Columbia Human Rights Act generally does not require exhaustion of administrative remedies, there is statutory exhaustion requirement for employees of District of Columbia government. D.C. Code 1981, § 1-2543; D.C. Mun.Reg. § 4-101 et seq. *Hunt v. D.C. Dep't of Corrections*, 41 F.Supp.2d 31, 1999 U.S. Dist. LEXIS 3979 (1999).

District of Columbia's Family and Medical Leave Act (FMLA) does not require exhaustion of administrative remedies prior to filing of civil action in court. D.C. Code 1981, §§ 36-1309, 36-1310. *Simmons v. District of Columbia*, 977

F. Supp. 62, 1997 U.S. Dist. LEXIS 20051 (1997).

Black female fire fighter with District of Columbia Fire Department was not required to exhaust her administrative remedies under District of Columbia Human Rights Act in order to bring federal civil rights action against fire department under federal civil rights statutes, so that three-year limitations period applicable to her civil rights action was not tolled while her claims were filed with District of Columbia Office of Human Rights. 42 U.S.C. §§ 1981, 1983; D.C. Code 1981, §§ 1-2501 et seq., 1-2512, 1-2543. *Deskins v. Barry*, 729 F. Supp. 1, 1989 U.S. Dist. LEXIS 15977 (1989).

District of Columbia Human Rights Act (DCHRA) does not authorize District of Columbia employees to file original actions in superior court; instead, they must first exhaust their administrative remedies. D.C. Code 1981, § 1-2501 et seq. *Roache v. District of Columbia*, 654 A.2d 1283, 1995 D.C. App. LEXIS 35 (1995).

Police officer was required to exhaust administrative remedies before bringing claim for discrimination based on sexual orientation and was not entitled to withdraw complaint from Office of Human Rights and file lawsuit prior to decision on merits. D.C. Code 1981, §§ 1-2512, 1-2526, 1-2556(a). *Newman v. District of Columbia*, 518 A.2d 698, 1986 D.C. App. LEXIS 484 (1986).

Where District of Columbia employee initially filed employment discrimination complaint with District Office of Human Rights, but then voluntarily withdrew her administrative complaint after failing to reach conciliation agreement, employee thereby failed to exhaust her administrative remedies, and could not subsequently maintain civil action in superior court premised on same employment discrimination. D.C. Code 1981, §§ 1-1512, 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Findings.

By failing to propound any significant findings of fact, hearing examiner deprived Court of Appeals of basis from which to decide error, thus requiring remand for further findings as to whether fire department's hair length regulations discriminated against male firefighter on basis of sex; record did not reflect whether examiner's conclusion was based on finding that department's hair length regulation for male employees was neither uniformly nor equally applied within class of male employees, or on finding that regulations were not uniformly and equally applied in comparison to female employees. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Although Human Rights Commission, in reviewing hearing examiner's proposed decision

on claim of racial and sexual discrimination in employment in violation of District of Columbia Human Rights Act, was not limited to determining whether hearing examiner's findings were supported by substantial evidence, Commission decision contrary to hearing examiner's proposed decision had to be remanded to allow Commission to explain its departure from hearing examiner's findings, especially from those relating to witness credibility. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2551 to 1-2554. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

Error by District of Columbia Commission on Human Rights, in premising factual finding on insubstantial evidence, was not prejudicial, no substantial doubt existed that same ultimate finding would have been made with error removed, in light of other testimony presented. *Wisconsin Ave. Nursing Home v. District of Columbia Com. on Human Rights*, 527 A.2d 282, 1987 D.C. App. LEXIS 367 (1987).

Court of Appeals must accept the Commission on Human Rights' findings of fact if they are supported by substantial evidence and the Court of Appeals must decide all relevant questions of law. D.C. Code 1981, § 1-1510(a)(1), (a)(3)(E). *RAP, Inc. v. District of Columbia Com. on Human Rights*, 485 A.2d 173, 1984 D.C. App. LEXIS 560 (1984).

Findings of fact of the Commission on Human Rights are binding on the Court of Appeals in a discriminatory employment case unless they are unsupported by substantial evidence in the record. D.C. Code 1981, §§ 1-1510, 1-1510(a)(3)(E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

"Findings" in which the Commission on Human Rights merely set forth what complainant's testimony was or what other witnesses said, without stating it found statements to be factual or testimony credible, did not constitute findings of fact by Commission and could not be treated as such by appellate court. D.C. Code § 1-1509(e). *Newsweek Magazine v. District of Columbia Com. on Human Rights*, 376 A.2d 777, 1977 D.C. App. LEXIS 444 (1977).

Commission of Human Rights' findings as to sex discrimination complaint were inadequate for meaningful review by the Court of Appeals because they did not, as they should have, resolve basic issues of fact raised by evidence adduced at hearing and, accordingly, case would be remanded for further findings and conclusions. D.C. Code § 1-1509(e). *Communications Workers of America v. District of Columbia Com. on Human Rights*, 367 A.2d 149, 1976 D.C. App. LEXIS 445 (1976).

In reviewing decision of Commission on Human Rights, Court of Appeals must ascertain whether Commission's findings are sustained

by substantial evidence on the whole record and then whether the findings in turn support the ultimate conclusion. *Miller v. District of Columbia Com. on Human Rights*, 339 A.2d 715, 1975 D.C. App. LEXIS 355 (1975).

For purposes of requirement that Court of Appeals, in reviewing decision of Commission on Human Rights, must ascertain whether Commission's findings are sustained by substantial evidence on the whole record and whether findings support the ultimate conclusion, the "ultimate conclusions" are the conclusions of law or the final decisions. *Miller v. District of Columbia Com. on Human Rights*, 339 A.2d 715, 1975 D.C. App. LEXIS 355 (1975).

Hearing.

In deciding whether alleged victim of housing discrimination was erroneously denied contested case hearing by Office of Human Rights (OHR), Court of Appeals would exercise jurisdiction necessary to decide whether contested case hearing was improperly withheld. *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Jurisdiction.

Court of Appeals lacked contested case jurisdiction to review application of Office of Human Rights (OHR) rule which provided that discrimination complaints could be dismissed if complainant refused make-whole relief offered in conciliation to individual cases. *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Court of Appeals had jurisdiction to consider on direct review housing discrimination complainant's contention that promulgation of rule granting director of Office of Human Rights (OHR) authority to order complaint which alleged discriminatory practice dismissed, if respondent offered complainant relief in conciliation that would have put complainant in same position as if no discrimination had occurred and complainant refused offer, contravened authority delegated to OHR by governing statute, as if housing discrimination complainant was correct, OHR lacked authority to deny her trial-type hearing before Human Rights Commission once probable cause of housing discrimination was found. D.C. Code 1981, § 1-2541(c). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Court of Appeals did not have jurisdiction to review decision of mayor's designee pursuant to statute, though designee was the equal employment opportunity director, over whom court would have jurisdiction if director had been acting in ordinary capacity rather than as mayor's designee. D.C. Code 1981, §§ 1-2543,

1-2554. *Kennedy v. Barry*, 516 A.2d 176, 1986 D.C. App. LEXIS 452 (1986).

Court of Appeals had no jurisdiction over employee's discrimination claims based on personal appearance and family responsibility, despite fact that such claims were not a "contested case," within meaning of statute providing for judicial review of a decision of the mayor or an agency. D.C. Code 1981, §§ 1-1502(8)(A), 1-1510(a), 1-2553(a)(1)(D). *Lamont v. Rogers*, 479 A.2d 1274, 1984 D.C. App. LEXIS 459 (1984).

Provision for judicial review in the human rights law does not expand scope of Court of Appeals jurisdiction to review administrative proceedings beyond that conferred by the Administrative Procedure Act, in that language of provision in the human rights law closely tracks language of the Administrative Procedure Act. D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2554. *Lamont v. Rogers*, 479 A.2d 1274, 1984 D.C. App. LEXIS 459 (1984).

Mootness.

Because of unresolved issues of damages, and because issues raised might otherwise evade appellate review, former fire department employee's claim for equitable relief, seeking reinstatement of administrative finding that department's grooming regulations violated District of Columbia Human Rights Act, was not rendered moot by employee's taking disability retirement prior to time trial court rendered its decision, in which court reinstated administrative finding but denied employee's claims for compensatory damages, attorney fees, and sanctions. D.C. Code 1981, §§ 1-2501 to 1-2557. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Preservation of action.

Employment discrimination plaintiff waived right to seek review of action of District of Columbia Office of Human Rights by failing to seek judicial review of Office's action in the District of Columbia Court of Appeals. D.C. Code 1981, § 1-2554. *Parker v. National Corp. for Hous. Partnerships*, 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380 (1988).

As a losing party in employment discrimination case before the Department of Human Rights (DHR), the District of Columbia Housing Authority (DCHA) was entitled to petition for review in the superior court of the DHR

decision, where it was aggrieved by the administrative decision against it and filed its review petition within three years of the agency determination. *D.C. Hous. Auth. v. D.C. Office of Human Rights*, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

University professor's failure to seek judicial review of administrative ruling finding no probable cause to believe that salary reduction she received was in retaliation for protected conduct so as to violate District of Columbia Human Rights Act did not preclude her from pursuing a Title VII retaliation claim in subsequent court action. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Where letter written by Office of Human Rights to claimant, who alleged he had been discriminated against by his employer, indicated that Office had completed its investigation of the claim and found no probable cause, and where letter was received by claimant prior to his making any effort to withdraw complaint from Office, claimant failed to preserve his right to bring same action in court. *D.C. Code §§ 6-2284(b), 6-2296. Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Where letter written by Office of Human Rights to claimant, who alleged that he had been discriminated against by his employer, stated that investigation of complaint was completed and apprised complainant of procedure to follow if he desired reconsideration of complaint, and where claimant failed to follow prescribed procedure for reconsideration, Office of Human Rights had not dismissed claim as matter of administrative convenience and claimant was thus precluded from instituting a *de novo* proceeding on same matter in court. *D.C. Code § 6-2296. Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Public employees.

Worker who, at time of acts of discrimination and filing of complaint, was employed by Department of Public and Assisted Housing (DPAH), which was subsequently abolished and District of Columbia Housing Authority (DCHA) created in its stead, was employee of the District within meaning of contested case exception, providing that petition for review of decision pertaining to selection of District employee must be filed in Superior Court in first instance. *D.C. Code 1981, § 1-1502(8)(B). District of Columbia Hous. Auth. v. District of Columbia Dep't of Human Rights*, 733 A.2d 338, 1999 D.C. App. LEXIS 154 (1999).

Questions of fact.

Whether reduction of university professor's salary after she refused to add third course to

her teaching load was in retaliation for her repeated complaints of sexually discriminatory treatment by supervisor, or was legitimate response to professor's alleged insubordination in refusing to teach course, was question for jury in action under Title VII's opposition clause. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

Court of Appeals normally defers to Commission on Human Rights, as fact finder, because hearing examiner is in best position to observe witnesses, particularly their demeanor, and thereby assess their believability. *Garzon v. District of Columbia Comm'n Human Rights*, 578 A.2d 1134, 1990 D.C. App. LEXIS 175 (1990).

It is function of Commission on Human Rights to weigh evidence presented and to consider it and that function cannot be performed by Court of Appeals for first time on review. *Miller v. District of Columbia Com. on Human Rights*, 339 A.2d 715, 1975 D.C. App. LEXIS 355 (1975).

Res judicata.

Doctrine of administrative *res judicata* barred employment discrimination plaintiff's claims under Title VII, District of Columbia Human Rights Act [*D.C. Code 1981, § 1-2501 et seq.*] and 42 U.S.C. § 1981; procedures provided by District of Columbia Commission on Human Rights were essentially equivalent to judicial proceeding, judgment was final, and parties and claims were identical to those brought before agency. *Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C. § 2000e et seq.; D.C. Code 1981, §§ 1-1509(b), 1-2552 to 1-2554. Parker v. National Corp. for Housing Partnerships*, 619 F. Supp. 1061, 1985 U.S. Dist. LEXIS 16573 (1985), reversed by 46 Fair Empl. Prac. Cas. (BNA) 1638 (D.C. Cir. June 2, 1987), dismissed by 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380, 48 Fair Empl. Prac. Cas. (BNA) 890 (D.D.C. 1988).

Scope of review.

Court of Appeals, in reviewing directed verdict that was entered for university at second trial of professor's Title VII retaliation claim, was not bound under "law of the case" doctrine by trial judge's holding at first trial as to when protected activity first occurred, even assuming judge at second trial was required to follow that holding; proper inquiry on appeal was whether second trial judge's ultimate disposition was correct. *Carter-Obayuwana v. Howard Univ.*, 764 A.2d 779, 2001 D.C. App. LEXIS 5 (2001).

On review of superior court's reversal of decision of mayor's special assistant on employment discrimination matter, and court's reinstatement of Equal Employment Opportunity Director's ruling, task of Court of Appeals was not simply to review superior court's decision

for error or abuse of discretion, but rather Court of Appeals would approach case as if appeal arose directly from administrative review. *Kennedy v. District of Columbia*, 654 A.2d 847, 1994 D.C. App. LEXIS 156 (1994).

Human Rights Commission's scope of review of hearing examiner's proposed decision on claim of racial discrimination in employment in violation of District of Columbia Human Rights Act was not limited to determination of whether hearing examiner's findings were supported by substantial evidence. D.C. Code 1981, §§ 1-1510(a)(3)(E), 1-2551 to 1-2554. *Harris v. District of Columbia Com. on Human Rights*, 562 A.2d 625, 1989 D.C. App. LEXIS 139 (1989).

An administrative order cannot be upheld unless grounds upon which agency acted in exercising its powers were those upon which its action can be sustained. *National Broadcasting Co. v. District of Columbia Com. on Human Rights*, 463 A.2d 657, 1983 D.C. App. LEXIS 410 (1983).

The review function of the Court of Appeals in a discriminatory employment case is to determine whether the findings of the Commission on Human Rights are supported by substantial evidence in the record considered as a whole and whether its conclusions of law flow

rationally from those findings. D.C. Code 1981, §§ 1-1510, 1-1510(a)(3)(E). *Greater Washington Business Center v. D.C. Com. on Human Rights*, 454 A.2d 1333, 1982 D.C. App. LEXIS 514 (1982).

Where appellate court ruled that appeal was limited to trial court order dismissing amended complaint charging retaliatory discharge for filing a complaint under the Human Rights Act, appellant's request that the court reverse trial court's holding on original complaint that failure to promote was not unlawful was not properly before reviewing court. D.C. Code 1973, § 6-2201 et seq. *Davis v. Potomac Electric Power Co.*, 449 A.2d 278, 1982 D.C. App. LEXIS 398 (1982).

Time for appeal.

Superior Court Civil Rule providing that petition for review from decision of agency under District of Columbia Comprehensive Merit Personnel Act must be filed within 30 days after formal notice did not apply to petition for review of Office of Human Rights determination brought by discharged employee of privately owned company. Court of Appeals Rule 15(a); D.C. Code 1981, § 1-606.3(d). *Simpson v. District of Columbia Office of Human Rights*, 597 A.2d 392, 1991 D.C. App. LEXIS 266 (1991).

§ 2-1403.15. Enforcement of order.

(a) The decision and order of the Commission shall be served on the respondent, with notice that, if the Commission determines that the respondent has not, after 30 calendar days following service of its order, corrected the unlawful discriminatory practice and complied with the order, the Commission will certify the matter to the Corporation Counsel, and to such other agencies as may be appropriate for enforcement.

(b) The Corporation Counsel shall institute, in the name of the District, civil proceedings including the seeking of such restraining orders and temporary or permanent injunctions, as are necessary to obtain complete compliance with the Commission's orders. In the event that successful civil proceedings do not result in securing such compliance, the Corporation Counsel shall institute criminal action.

(c) No enforcement action shall be instituted pending review as provided in § 2-1403.14.

(d) Nothing in this section shall be construed to deprive any person of rights in the criminal justice process.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 315, 24 DCR 6038.)

Section references. — This section is referred to in § 2-1403.17.

Prior Codifications. — 1981 Ed., § 1-2555. 1973 Ed., § 6-2295.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days

before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

§ 2-1403.16. Private cause of action.

(a) Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate, unless such person has filed a complaint hereunder; provided, that where the Office has dismissed such complaint on the grounds of administrative convenience, or where the complainant has withdrawn a complaint, such person shall maintain all rights to bring suit as if no complaint had been filed. No person who maintains, in a court of competent jurisdiction, any action based upon an act which would be an unlawful discriminatory practice under this chapter may file the same complaint with the Office. A private cause of action pursuant to this chapter shall be filed in a court of competent jurisdiction within one year of the unlawful discriminatory act, or the discovery thereof, except that the limitation shall be within 2 years of the unlawful discriminatory act, or the discovery thereof, for complaints of unlawful discrimination in real estate transactions brought pursuant to this chapter or the FHA. The timely filing of a complaint with the Office, or under the administrative procedures established by the Mayor pursuant to § 2-1403.03, shall toll the running of the statute of limitations while the complaint is pending.

(b) The court may grant any relief it deems appropriate, including, the relief provided in §§ 2-1403.07 and 2-1403.13(a).

(Dec. 13, 1977, D.C. Law 2-38, title III, § 316, 24 DCR 6038; Oct. 23, 1997, D.C. Law 12-39, § 2(d), 44 DCR 4856; Apr. 20, 1999, D.C. Law 12-242, § 2(k), 46 DCR 952; Oct. 1, 2002, D.C. Law 14-189, § 2(i), 49 DCR 6523.)

Prior Codifications. — 1981 Ed., § 1-2556. 1973 Ed., § 6-2296.

Effect of amendments. — D.C. Law 14-189, in the fourth sentence of subsec. (a), substituted “The timely filing of a complaint with the Office, or under the administrative procedures established by the Mayor pursuant to § 2-1403.03, shall toll the running of the statute of limitations while the complaint is pending.” for “The timely filing of a complaint with the Office shall toll the running of the statute of limitations while the complaint is pending before the Office.”

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 12-39. — For legislative history of D.C. Law 12-39, see Historical and Statutory Notes following § 2-1403.04.

Legislative history of Law 12-242. — For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

Legislative history of Law 14-189. — For Law 14-189, see notes following § 2-1401.02.

CASE NOTES

ANALYSIS

Attorneys' fees.

Continuing violation theory.
Contracts.
Costs.

Damages.
 Decisions reviewable.
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 Exhaustion of administrative remedies.
 Hostile work environment.
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 Jurisdiction.
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 Preservation of action.
 Pretext.
 Remedies.
 Standing.
 Statute of limitations.
 Sufficiency of evidence.
 Summary judgment.
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Attorneys' fees.

Remand was necessary for recalculation of attorney fees to be awarded to former employee under the District of Columbia Human Rights Act (DCHRA), where only rationale offered by district court for its 65% reduction in former employee's presettlement-offer fees was that jury awarded former employee \$9,000 of her requested \$20,000 damages in backpay and lost benefits on her DCHRA retaliatory discharge claim and that former employee's breach of contract claim was unsuccessful and redundant. D.C. Code 1981, §§ 1-2553(a)(1)(E), 1-2556(b). *Goos v. National Ass'n of Realtors*, 68 F.3d 1380, 1995 U.S. App. LEXIS 30961 (C.A.D.C. 1995).

Three-part analysis is required for attorney fees decisions, involving: determination of number of hours reasonably expended in litigation; determination of reasonable hourly rate; and use of multipliers as merited. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

To qualify for attorney fee award at rate higher than that customarily charged by litigating attorney, fee petitioner must carry his or her burden of showing: attorneys' billing practices; attorneys' skill, experience, and reputation; and prevailing market rates in relevant community. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Determination of whether attorney charges below-market rates for public interest reasons rests in sound discretion of district court. *Mar-*

tini v. Fannie Mae, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Touchstone inquiry, on request for attorney fee award for time charged, is whether time expended on particular tasks was reasonable. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Parties cannot be reimbursed for attorney fees charged for nonproductive time or duplicative activities, but fee contests must not be permitted to evolve into exhaustive, trial-type proceedings. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Successful litigant may not recover attorney fee for time spent by attorney contacting media. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

In general, successful litigant may not recover attorney fee for time spent researching, drafting, and preparing unsuccessful motions. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Prevailing litigant could not recover attorney fee for time spent preparing motion to compel which was not filed. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Employee who prevailed in employment discrimination action could recover attorney fee for both attorneys present at depositions, even though only one attorney took or defended deposition, where opposing party was represented at depositions by three attorneys. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec.

(CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Employee who prevailed in employment discrimination action could recover attorney fees incurred in connection with preparation of motion to compel, even though it was unsuccessful per se, as it was motion which had to be litigated, and motion succeeded in protecting litigant's interests. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Employee who prevailed in employment discrimination action could recover attorney fee for time spent preparing amended complaint and motion for leave to file amended complaint; it was not unreasonable for employee to assert Title VII claims before she was eligible to assert claims under D.C. Human Rights Act. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Expenditure of 58.67 hours preparing pre-trial statement was unreasonable, and would be reduced by 50% for purposes of awarding attorney fee to employee who prevailed in employment discrimination action. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Attorney fee awarded to employee who prevailed on employment discrimination claims only had to be reduced by 15%, based upon fact that she did not prevail on her claims for negligent supervision, negligent infliction of emotional distress, and intentional infliction of emotional distress; action involved related claims, alternative or related legal theories, and common nucleus of facts, overall success was substantial, and most hours were reasonably expended. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq.; D.C. Code 1981, § 1-2501 et seq. *Martini v. Fannie Mae*, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Attorney failed to demonstrate established billing history entitling him to recover attorney fees at rate of \$400 per hour under the District of Columbia's Human Rights Act, where those clients who paid him \$400 per hour did so only after he promised that total bill would be no more than a fixed sum, and other evidence of billing either involved small and isolated incidents or involved billing that was too recent to be subject to discovery. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Appropriate hourly rate for attorney fee award under District of Columbia's Human Rights Act, for attorney who lacked established billing history, was \$305, based on prevailing market rates as determined through use of United States Attorney's Office matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney fees would be awarded at current rates for entire period of litigation under District of Columbia's Human Rights Act to compensate for six-year delay in payment. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney did not have established billing rate of \$150 per hour as claimed, and instead fees would be awarded pursuant to attorney fee matrix at rate of \$250 per hour in suit under District of Columbia's Human Rights Act, despite her public interest service and limited billings made. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Lawyer's experience as salaried employee in public interest offices were to be taken into consideration in determining prevailing market rates for her services through use of attorney fee matrix, in suit under District of Columbia's Human Rights Act, absent any evidence that her public interest work commanded different salaries than those charged on matrix. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Attorney would be awarded compensation for his performance of administrative tasks at rate of \$80 per hour, rather than at rate of \$60 per hour, in suit under District of Columbia's Human Rights Act, where \$80 rate was awarded in another recent case and defendant did not state in opposition why \$60 rate was more appropriate. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

In awarding attorney fees under District of Columbia's Human Rights Act, district court would reduce claimed hours by 10% to reflect insufficient detail of some of counsel's records

and conflicting and contradictory nature of some fee requests. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fee applicants are entitled to reasonable attorney fees expended pursuing fee award under the District of Columbia's Human Rights Act, which includes fees expended not only in preparing reply on fee issue, but in preparing fee application and supplemental reply. D.C. Code 1981, § 1-2501 et seq. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fact that counsel took employee's racial and sexual discrimination case on contingency did not entitle them to requested 200% enhancement of lodestar amount of attorney fees under District of Columbia Human Rights Act; rules governing determination of federal fee awards govern awards under Act, and such enhancements are not permitted under federal fee-shifting statutes. D.C. Code 1981, §§ 1-2553(a), 1-2556(b). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

District of Columbia Human Rights Act does not require courts to award reasonable attorney fees to prevailing parties, but rather, confirms court's discretionary authority over attorney fee applications. D.C. Code 1981, §§ 1-2501 et seq., 1-2553, 1-2553(a)(1), 1-2556, 1-2556(b). *Thompson v. International Asso. of Machinists & Aerospace Workers*, 664 F. Supp. 578, 1987 U.S. Dist. LEXIS 6407 (1987).

Former law firm partner was not entitled to award of attorney fees upon arbitration panel's determination that law firm discriminated against her in the manner and terms of her release but did not discriminate against her in deciding to request her resignation; partner was successful on only one of her eight claims against firm and received limited relief as a result, and partner recovered only about three percent of damages sought. *Shore v. Groom Law Group*, 877 A.2d 86, 2005 D.C. App. LEXIS 11 (2005).

Former employee was entitled to statutory award of attorney fees, even though punitive damages award against employer was excessive, where jury's finding of liability for statutory retaliation was sustained, and evidence supported some award of punitive damages. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

In an action under the Human Rights Act, wherein the jury awarded plaintiffs compensatory and punitive damages for sex discrimination in the form of harassment and retaliation, the court granted attorneys' fees at the rate requested. *Drake v. Henkels & McCoy, Inc.*, 125 WLR 433 (Super. Ct. 1997).

Continuing violation theory.

Continuing violation theory was not applica-

ble to employment discrimination claims brought pursuant to District of Columbia Human Rights Act since employee had not alleged that he was unaware that the employer's actions were discriminatory when they occurred or that post-action facts came to light which transformed his perception of events that previously seemed non-discriminatory; furthermore, each incident of discrimination constituted a separate actionable unlawful employment practice. *Harris v. Wackenhut Servs.*, 590 F.Supp.2d 54, 2008 U.S. Dist. LEXIS 99184 (2008), amended by 648 F. Supp. 2d 53, 2009 U.S. Dist. LEXIS 77452, 107 Fair Empl. Prac. Cas. (BNA) 532 (D.D.C. 2009).

The continuing violation doctrine did not apply to reasonable accommodation claims asserted under the District of Columbia Human Rights Act (DCHRA) against law firm by computer programmer/analyst who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, and thus any instances in which law firm failed to reasonably accommodate programmer/analyst which fell outside of DCHRA's one-year statute of limitations were not actionable, as each denial by law firm of a request for accommodation was a discrete discriminatory act. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Contracts.

Former student was not entitled to amend his complaint alleging that university breached agreement formed when he accepted its offer of acceptance by dismissing him from medical school to add additional breach of contract claims, where student had previously sought leave to amend to add claims, but failed to promptly rectify deficiencies identified by university, and expressly disclaimed any intention of pursuing breach of contract claim predicated on anything beyond offer of acceptance, motion was not filed until seventeen months after action's commencement, student had already amended complaint twice, and granting leave to amend would have radically expanded scope of his breach of contract claims. *Hajjar-Nejad v. George Washington University*, 2012 WL 89973 (2012).

Written language embodying terms of an agreement will govern rights and liabilities of the parties, irrespective of intent of the parties at time they entered the contract, unless the written language is not susceptible of a clear and definite undertaking or unless there is fraud, duress, or mutual mistake. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Costs.

Costs must be both reasonably incurred and reasonable in amount, given progress of the

case, to be awarded to prevailing party. Fed.R.Civ.Proc. Rule 54(d), 18 U.S.C. Martini v. Fannie Mae, 977 F. Supp. 482, 1997 U.S. Dist. LEXIS 14192 (1997), remanded by 178 F.3d 1336, 336 U.S. App. D.C. 289, 1999 U.S. App. LEXIS 13639, 76 Empl. Prac. Dec. (CCH) P46060, 80 Fair Empl. Prac. Cas. (BNA) 1 (1999).

Fact that posttraumatic stress disorder claim was unsuccessful did not preclude awarding as costs fee paid to expert for his opinion on posttraumatic stress disorder and costs related to expert's deposition, where expert's deposition testimony also formed part of basis for plaintiff's other successful claim of intentional infliction of emotional distress. *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 505, 1994 U.S. Dist. LEXIS 13051 (1994).

Fees in excess of the amount of damages recovered are not necessarily unreasonable and need not be proportionate to those damages. *Best v. Howard Univ.*, 114 WLR 2689 (Super. Ct.).

Damages.

Punitive damages are available under District of Columbia Human Rights Act (DCHRA) if employee can establish evil motive or actual malice on part of her employer, and that employer ratified discriminatory conduct; however, mere finding of discriminatory action, without more, will not support award of punitive damages. D.C. Code 1981, § 1-2556(b). *Pendarvis v. Xerox Corp.*, 3 F.Supp.2d 53, 1998 U.S. Dist. LEXIS 6481 (1998).

Employee was not entitled to compensatory damages for posttraumatic stress disorder (PTSD) in her race and sex discrimination action against employer under District of Columbia Human Rights Act as trauma suffered as result of discrimination was not sufficiently severe to trigger PTSD; employee's supervisor allegedly engaged in drunken, explosive behavior, cursing, tearing or burning of her work, talking loudly in her face, and permitting and making racist and sexist jokes, cartoons, and remarks, and subjected her to onerous schedule and inadequate facilities, and employee had continued to function well in her job and never sought psychiatric help. D.C. Code 1981, § 1-2556(a). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

District of Columbia Human Rights Act, which permits court to order appropriate relief, including, but not limited to, compensatory damages, authorizes award of punitive damages for employment discrimination. D.C. Code 1981, §§ 1-2512, 1-2553(a), (a)(1)(D), 1-2556(b). *Green v. American Broadcasting Cos.*, 647 F. Supp. 1359, 1986 U.S. Dist. LEXIS 17915 (1986).

Punitive damages of \$4,812,500 awarded to former employee in action for negligent supervision and for retaliation in violation of District of Columbia Human Rights Act (DCHRA) were excessive; although facts established by jury's verdict justified a significant award of punitive damages, sum awarded, which reflected a ratio of 26:1 to compensatory damages award, lacked the reasonableness and proportionality required of a punitive damages award. *Daka, Inc. v. McCrae*, 839 A.2d 682, 2003 D.C. App. LEXIS 752 (2003).

Because purpose of punitive damages is to punish tort-feasor and deter future conduct, amount of such damages should be enough to inflict punishment, while not so great as to exceed boundaries of punishment and lead to bankruptcy. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

There was sufficient evidence of malice or evil motive to support jury's award of punitive damages to employee on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA); employee had directly told his manager to stop making age-based comments, and manager persisted in his ridicule and condoned or encouraged other employees when they made similar remarks. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Ten thousand dollar compensatory damages award to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA) was not excessive; employee testified that insulting behavior of his supervisor and co-workers made him feel inadequate and inept, and employee's wife said that he suffered both mentally and physically in the weeks before he was fired. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Punitive damages award of \$390,000, which was awarded to employee who prevailed on his age-related hostile work environment claim under District of Columbia Human Rights Act (DCHRA), was not so grossly excessive as to violate due process, even though punitive damages award was 39 times employee's \$10,000 compensatory damages award. U.S. Const. Amend. 14; D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Punitive damages are available in all discrimination cases under District of Columbia Human Rights Act (DCHRA), subject only to general principles governing any award of punitive damages. D.C. Code 1981, § 1-2501 et seq. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

As matter of due process, punitive damages awards must not be grossly out of proportion to severity of offense and must have some understandable relationship to compensatory damages. U.S. Const. Amend. 14. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Only when punitive damages award can fairly be categorized as grossly excessive in relation to legitimate punitive interests does it enter zone of arbitrariness that violates due process. U.S. Const. Amend. 14. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Twofold purpose of punitive damages is to punish unlawful conduct and to deter its repetition. *Daka, Inc. v. Breiner*, 711 A.2d 86, 1998 D.C. App. LEXIS 86 (1998), remanded by 806 A.2d 180, 2002 D.C. App. LEXIS 508, 89 Fair Empl. Prac. Cas. (BNA) 1691 (D.C. 2002).

Mere finding of discriminatory action, without more, will not support award of punitive damages under District of Columbia Human Rights Act; showing of evil motive or actual malice is also required. D.C. Code 1981, § 1-2556(b). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

Award of punitive damages against accounting firm, found to have sexually discriminated against female employee, was supported by evidence of malice or willfulness; there was evidence that supervisory personnel both participated in and otherwise condoned working conditions in which women, including plaintiff, were subject to sexist comments on regular basis. D.C. Code 1981, § 1-2556(b). *Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 1993 D.C. App. LEXIS 211 (1993).

The jury is entitled to include a sum for emotional distress and humiliation that plaintiff suffered as a result of her wrongful termination; recovery for damages is not limited to a back pay determination, but may include compensatory damages in the normal tort sense, and in appropriate circumstances, punitive damages may even be recovered. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

As this section authorizes a court to grant relief in actions under the Human Rights Act beyond the relief described in § 1-2553(a), an

award of punitive damages in an egregious case of unlawful discrimination would be justified. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Compensatory damages and punitive damages are not merely ancillary under an equitable relief scheme in the District of Columbia Human Rights Act, but are coequal and significant aspects of relief to which a plaintiff is entitled. *Green v. Howard Univ.*, 121 WLR 629 (Super. Ct. 1992).

Decisions reviewable.

Filing of an Equal Employment Opportunity Commission (EEOC) complaint by an applicant terminated from a metropolitan police department officer training program, allegedly because of his race and sex, did not toll the statute of limitations applicable to his claims under the District of Columbia's Human Rights Act (DCHRA). *Thompson v. District of Columbia*, 573 F.Supp.2d 64, 2008 U.S. Dist. LEXIS 66042 (2008), affirmed by 2009 U.S. App. LEXIS 25618 (D.C. Cir. Nov. 18, 2009).

Order which dismissed battery complaint against former supervisor on the ground that employee had elected to pursue relief before the Office of Human Rights was not appealable where employer which was also a defendant did not join in the motion and the action had not been dismissed as to it. Civil Rule 54(b). *Paden v. Galloway*, 550 A.2d 1128, 1988 D.C. App. LEXIS 216 (1988).

Duty to mitigate damages.

Employee, who was discharged due to racial discrimination in violation of District of Columbia Human Rights Act, took adequate steps to mitigate damages during period between discharge and general layoff which would have resulted in loss of his job five months later, so that he was entitled to back pay for that period; in order to collect unemployment he received during period, employee was required to demonstrate at least three hard contacts for prospective employment each week. D.C. Code 1981, § 1-2556(b). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Election of remedies.

Employee could not bring action in United States District Court for the District of Columbia or any other court alleging violations of the District of Columbia Human Rights Act, where employee had filed complaint with District of Columbia Office of Human Rights, Office had fully investigated matter and reached conclusion on merits rather than dismissing it on grounds of administrative convenience, and employee had never withdrawn complaint. D.C. Code 1981, § 1-2556(a). *Hogue v. Roach*, 967 F. Supp. 7, 1997 U.S. Dist. LEXIS 9091 (1997).

Election of remedies doctrine barred sex discrimination complaint under Human Rights Act by former confidential secretary for union official; former secretary had filed administrative complaint that was not withdrawn in timely manner and that was dismissed for lack of prosecution, rather than for administrative convenience. D.C. Code 1981, § 1-2556. *Weiss v. International Brotherhood of Electrical Workers*, 729 F. Supp. 144, 1990 U.S. Dist. LEXIS 902 (1990).

District court would abstain from hearing employee's "intentional infliction of emotional distress" and other common law claims arising from alleged incident of sexual harassment in work place, where claim arose out of same acts as civil rights complaint currently pending before administrative agency, and employee might obtain full compensation in administrative forum. D.C. Code 1981, § 1-2556(a). *Locklear v. Dubliner, Inc.*, 721 F. Supp. 1342, 1989 U.S. Dist. LEXIS 13712 (1989).

District of Columbia Human Rights Act did not preempt common law claims arising out of alleged incidence of sexual harassment in work place. D.C. Code 1981, § 1-2556(a). *Locklear v. Dubliner, Inc.*, 721 F. Supp. 1342, 1989 U.S. Dist. LEXIS 13712 (1989).

Employment discrimination plaintiff's claim for relief under District of Columbia Human Rights Act was barred by District of Columbia election of remedies statute; complaint before District of Columbia Office of Human Rights was never dismissed on ground of administrative convenience, and plaintiff never withdrew complaint from Office before Office rendered its administrative decision dismissing claim. D.C. Code 1981, § 1-2556. *Parker v. National Corp. for Hous. Partnerships*, 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380 (1988).

Jurisdiction of federal district court in employment discrimination action and District of Columbia Office of Human Rights are mutually exclusive; aggrieved party who has filed complaint with Office may file complaint in a court of competent jurisdiction only when Office dismisses complaint on ground of administrative convenience or when complainant withdraws complaint before Office renders administrative decision. D.C. Code 1981, § 1-2556. *Parker v. National Corp. for Hous. Partnerships*, 697 F. Supp. 5, 1988 U.S. Dist. LEXIS 14380 (1988).

District of Columbia's Human Rights Act requires an individual to elect between filing of a complaint with District of Columbia Office of Human Rights and filing a private cause of action. D.C. Code 1981, § 1-2556. *Weaver v. Gross*, 605 F. Supp. 210, 1985 U.S. Dist. LEXIS 21256 (1985), dismissed by 41 Empl. Prac. Dec. (CCH) P36446, 40 Fair Empl. Prac. Cas. (BNA) 1069 (D.D.C. Apr. 25, 1986).

Since the private right of action established by the District of Columbia Human Rights Act

is available only to nongovernment employees, the plaintiff, as a District employee, could not maintain an action for damages under the Human Rights Act. D.C. Code 1981, §§ 1-2512, 1-2556. *Dougherty v. Barry*, 604 F. Supp. 1424, 1985 U.S. Dist. LEXIS 21987 (1985).

Where employee withdrew discrimination complaint which he had filed with District of Columbia office of human rights, he was entitled to maintain judicial action. D.C. Code 1981, §§ 1-2501 et seq., 1-2554, 1-2556. *Held v. National R. Passenger Corp.*, 101 F.R.D. 420, 1984 U.S. Dist. LEXIS 20167 (1984).

When the Office of Human Rights (OHR) invokes the automatic termination provision of the worksharing agreement for complaints filed originally with the Equal Employment Opportunity Commission (EEOC), that ruling constitutes a dismissal on the ground of administrative convenience under the District of Columbia Human Rights Act (DCHRA), leaving the complainant free to pursue her cause of action in the Superior Court. *Griffin v. Acacia Life Ins. Co.*, 925 A.2d 564, 2007 D.C. App. LEXIS 266 (2007).

The Office of Human Rights' invocation of the automatic termination provision of the worksharing agreement with the Equal Employment Opportunity Commission (EEOC) for complaints originally filed with the EEOC amounted to a dismissal of employee's retaliation claim on the grounds of administrative convenience, and thus, the election of remedies provision of the District of Columbia Human Rights Act (DCHRA) did not preclude employee from filing claim in superior court. *Griffin v. Acacia Life Ins. Co.*, 925 A.2d 564, 2007 D.C. App. LEXIS 266 (2007).

Under the District of Columbia Human Rights Act's (DCHRA) election of remedies provision, when one opts to file a complaint alleging discrimination with the Office of Human Rights, he or she generally may not also file a complaint in court. *Griffin v. Acacia Life Ins. Co.*, 925 A.2d 564, 2007 D.C. App. LEXIS 266 (2007).

Housing discrimination complainant who suffered dismissal of complaint by Office of Human Rights (OHR) on grounds of administrative convenience could file original complaint in superior court or seek review in superior court, and if superior court affirmed, seek review in Court of Appeals. D.C. Code 1981, §§ 1-2556(a), 11-721(a)(1). *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 1993 D.C. App. LEXIS 273 (1993).

Sex discrimination claimant under the District of Columbia Human Rights Act was precluded from bringing suit in superior court, after her prior administrative complaint had been the subject of a probable cause determination by the Office of Human Rights. D.C. Code 1981, §§ 1-2544(b), 1-2556. *Anderson v. U.S.*

Safe Deposit Co., 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Employment discrimination administrative remedies provided by statute and administrative order are exclusive remedies available to District of Columbia government employee claiming discrimination in employment, and private right of action under statute authorizing filing of civil action for unlawful discriminatory practice is available only to nongovernment employees. D.C. Code 1981, §§ 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Claimant, who alleged that he had been discriminated against by his employer and who chose not to file his complaint in court but, rather, to file with Office of Human Rights, lost his right to bring same action in court unless claimant withdrew complaint from Office of Human Rights before administrative decision was rendered, or Office of Human Rights dismissed complaint on grounds of administrative convenience. D.C. Code §§ 6-2284, 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Under the Human Rights Law, within one year of any alleged unlawful discriminatory practice or its discovery, the complainant, seeking damages or other appropriate relief, may file complaint either with Office of Human Rights, or in any court of competent jurisdiction, but may not file complaint with both. D.C. Code §§ 6-2284, 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Where one opts to file a complaint with the District of Columbia Office of Human Rights, he or she generally may not also file a complaint in court; conversely, where a person opts to file an unlawful discriminatory practice suit in court, such person is barred from filing thereafter an identical complaint with OHR; however, where OHR dismisses a complaint on grounds of administrative convenience, or where the complainant withdraws his complaint before an administrative decision is rendered, such person retains the right to file a complaint in court. D.C. Code §§ 6-2284, 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Elements.

In order to establish prima facie case of handicap discrimination in violation of ADA and District of Columbia Human Rights Act, employee must show that he is otherwise qualified individual with disability. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom.

Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Until employee demonstrates that she was capable of performing essential functions of her position, with or without accommodation, employer is under no corresponding duty to make reasonable accommodation, for purposes of disability discrimination claim under ADA and District of Columbia Human Rights Act. Americans with Disabilities Act of 1990, § 2 et seq., 42 U.S.C. § 12101 et seq.; D.C. Code 1981, § 1-2556. *Whitbeck v. Vital Signs*, 934 F. Supp. 9, 1996 U.S. Dist. LEXIS 11729 (1996), reversed by, remanded by 116 F.3d 588, 325 U.S. App. D.C. 244, 1997 U.S. App. LEXIS 14814, 4 Accom. Disabilities Dec. (CCH) P4-069, 6 Am. Disabilities Cas. (BNA) 1540 (1997).

Lessee established claim for civil conspiracy against lessors, in that its valid claim for racial discrimination under the District of Columbia Human Rights Act (DCHRA) was sufficient as underlying tortious act, where lessee alleged lessors withheld consent of assignment of retail lease due to proposed assignees' race. D.C. Code 1981, §§ 1-2502(21), 1-2515(a, b), 1-2556. *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Estoppel.

Conclusion by District of Columbia Office of Human Rights as investigative body that there was no probable cause of discharge in retaliation for rights protected by Human Rights Act did not collaterally estop discharged employee from challenging discharge in § 1981 and civil rights conspiracy claims; proceedings before Office gave inadequate opportunity to litigate factual issues; and Office's finding of no jurisdiction threw status of earlier action into uncertain light. 42 U.S.C. §§ 1981, 1985(3); D.C. Code 1981, §§ 1-1501 to 1-1510, 1-2501 et seq., 1-2525, 1-2544, 1-2545, 1-2550 to 1-2553; § 1-1511 (repealed). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Where letter written by Office of Human Rights to claimant, who alleged that he had been discriminated against by his employer, stated that investigation of complaint was completed and apprised complainant of procedure to follow if he desired reconsideration of complaint, and where claimant failed to follow prescribed procedure for reconsideration, Office of Human Rights had not dismissed claim as matter of administrative convenience and claimant was thus precluded from instituting a de novo proceeding on same matter in court. D.C. Code § 6-2296. *Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Exhaustion of administrative remedies.

Department of Labor employee fully exhausted her administrative remedies with re-

spect to her employment discrimination grievances, as required to bring action under Title VII against DOL, where she timely appealed arbitrator's dismissal of her Equal Employment Opportunity (EEO) complaints, and EEO failed to issue a decision on her appeal within 180 days of filing of appeal. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Failure to exhaust administrative remedies ordinarily bars a plaintiff from proceeding on her employment discrimination claims in court. *Lloyd v. Chao*, 240 F.Supp.2d 1, 2002 U.S. Dist. LEXIS 25498 (2002).

Discharged employees did not fail to exhaust their administrative remedies before bringing cause of action alleging discriminatory discharge following report of sexual harassment, even though District of Columbia Human Rights Act permitted aggrieved parties to file an administrative complaint or to bring a civil action in court, but not both, and even though the employees failed to obtain a "right to sue" notice from the Equal Employment Opportunity Commission (EEOC) before bringing suit; after employer filed motion for partial dismissal, the employees withdrew their administrative claims and amended their complaint to reflect that fact, and the EEOC issued the "right to sue" letters after the motion was filed. D.C. Code 1981, §§ 1-2501 et seq., 1-2556(a); Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. § 2000e et seq. *Rauh v. Coyne*, 744 F. Supp. 1186, 1990 U.S. Dist. LEXIS 10019 (1990), amended by 57 Fair Empl. Prac. Cas. (BNA) 1552 (D.D.C. Oct. 2, 1990).

Employee may file suit in superior court for substantial damages, including punitive damages, for sexual harassment in violation of Human Rights Act without having to exhaust administrative remedies through Office of Human Rights. D.C. Code 1981, §§ 1-2553(a)(1), 1-2556. *Estate of Underwood v. National Credit Union Admin.*, 665 A.2d 621, 1995 D.C. App. LEXIS 168 (1995).

Where District of Columbia employee initially filed employment discrimination complaint with District Office of Human Rights, but then voluntarily withdrew her administrative complaint after failing to reach conciliation agreement, employee thereby failed to exhaust her administrative remedies, and could not subsequently maintain civil action in superior court premised on same employment discrimination. D.C. Code 1981, §§ 1-1512, 1-2543, 1-2556. *Williams v. District of Columbia*, 467 A.2d 140, 1983 D.C. App. LEXIS 480 (1983).

Hostile work environment.

Even if computer programmer/analyst employed by law firm had earlier been subjected to incidents that constituted a hostile work environment, her conversation with director of hu-

man resources in which director told programmer/analyst, who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, that if she could not return on a full-time basis she would be terminated, did not contribute to a hostile work environment such that programmer/analyst's hostile work environment claim accrued and one-year limitations period under the District of Columbia Human Rights Act (DCHRA) began to run when conversation took place; conversation was not part of the work environment as programmer/analyst had been out on medical leave for at least five months, conversation was polite and cordial, and the only continuity between conversation and earlier incidents was recurring requests for accommodation. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Intentional infliction of emotional distress.

Hospital did not intentionally inflict emotional distress on admissions financial advisor, under District of Columbia law, by issuing her remands, denying her access to training, and certain supervisors' adoption of unpleasant attitude and tone of voice toward advisor; conduct was insufficiently egregious. *Everson v. Medlantic Healthcare Group*, 414 F.Supp.2d 77, 2006 U.S. Dist. LEXIS 5178 (2006).

While District of Columbia statute of limitations for claim for intentional infliction of emotional distress is three year residual limitations period, to extent emotional distress claim is intertwined with hostile work environment claim, it assumes hostile work environment claim's one-year limitations period. *Bryant v. Orkand Corp.*, 407 F.Supp.2d 29, 2005 U.S. Dist. LEXIS 4894 (2005).

Under District of Columbia law, claim for intentional infliction of emotional distress requires the plaintiff to show (1) extreme and outrageous conduct by the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Under District of Columbia law, in an employment context, the proof required to support a claim for intentional infliction of emotional stress is particularly demanding. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Under District of Columbia law, university's alleged pattern of irrational accent-based dis-

crimination against Hispanic job applicants could by itself not raise accent-based rejection of instructor to required level of outrageous conduct to support intentional infliction of emotional distress claim. *Ben-Kotel v. Howard Univ.*, 156 F.Supp.2d 8, 2001 U.S. Dist. LEXIS 20354 (2001), affirmed by 319 F.3d 532, 355 U.S. App. D.C. 82, 2003 U.S. App. LEXIS 3278, 83 Empl. Prac. Dec. (CCH) P41328, 91 Fair Empl. Prac. Cas. (BNA) 126 (2003).

Patient misdiagnosed as HIV-positive was not within a zone of physical danger, as required in order to maintain a negligent infliction of emotional distress action against medical clinic, as patient did not take medication and was not medically treated for the purported HIV-positive condition, and needle pricks for blood tests did not satisfy the zone of physical danger requirement. *Hedgepeth v. Whitman Walker Clinic*, 980 A.2d 1229, 2009 D.C. App. LEXIS 492 (2009), vacated by 990 A.2d 455, 2010 D.C. App. LEXIS 88 (D.C. 2010).

Given privileged nature of physician's disclosures to fellow internist in physician's office regarding patient's HIV-positive status, fact that patient's T-cell count had dropped, and that patient alleged that internist had sexually molested him when examining and treating him, and cloak of continuing confidentiality, disclosures could not form basis for demanding requirements of tort of intentional infliction of emotional injury. *Suesbury v. Caceres*, 840 A.2d 1285, 2004 D.C. App. LEXIS 9 (2004).

Employee, who adduced no evidence to establish that actions of employer and supervisor, with the exception of alleged assault and battery, were based on anything but legitimate business reasons, failed to prove "outrageous conduct" required to establish claim for intentional infliction of emotional distress. *Joyner v. Sibley Mem. Hosp.*, 826 A.2d 362, 2003 D.C. App. LEXIS 417 (2003).

Attorney's alleged disclosure of client's confidential information to another state's law enforcement officials, in order to secure prosecution of the client, was "extreme and outrageous" conduct sufficient to state a cause of action against attorney and public defender service for intentional infliction of emotional distress. *Herbin v. Hoeffel*, 806 A.2d 186, 2002 D.C. App. LEXIS 503 (2002).

Actions which violate public policy may constitute outrageous conduct sufficient to state a cause of action for infliction of emotional distress. *Herbin v. Hoeffel*, 806 A.2d 186, 2002 D.C. App. LEXIS 503 (2002).

University faculty member, who produced evidence of repeated sexual harassment by male dean who was her supervisor, made out a prima facie case of intentional infliction of emotional distress, as the evidence of a pattern of harassment was sufficient for jury to find that the dean intentionally and recklessly sub-

jected faculty member to outrageous conduct which impaired her health. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Creation of a hostile work environment by racial or sexual harassment may, upon sufficient evidence, constitute a prima facie case of intentional infliction of emotional distress. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Actions which violate public policy may constitute outrageous conduct sufficient to state a cause of action for intentional infliction of emotional distress. *Howard Univ. v. Best*, 484 A.2d 958, 1984 D.C. App. LEXIS 551 (1984).

Jurisdiction.

Employee's employment discrimination action, brought in the District of Columbia, under the District of Columbia Human Rights Act (DCHRA), alleging his former employer and his former supervisor harassed him, removed him from his position as foreman, and laid him off because of race, could have been brought in the District of Maryland, and therefore district court for the District of Columbia had discretion to transfer the action to the district of Maryland; employer had its only office in Maryland, supervisor resided in, and worked out of employer's office in, Maryland, employer made the decision to terminate employee's employment in Maryland, and employee learned of his termination while working on a construction site in Maryland. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Most important factor in determining whether court has subject matter jurisdiction over claim filed pursuant to District of Columbia Human Rights Act (DCHRA) is not whether plaintiff was actually employed in District, but whether alleged discriminatory acts occurred in District. *Quarles v. Gen. Inv. & Dev. Co.*, 260 F.Supp.2d 1, 2003 U.S. Dist. LEXIS 3962 (2003).

Issue of when African-American employee discovered that position for which she had applied had been filled by white coworker presented questions of fact which could not be decided on employer's motion to dismiss employee's action alleging discrimination in violation of District of Columbia Human Rights Act (DCHRA) for lack of subject matter jurisdiction. *Quarles v. Gen. Inv. & Dev. Co.*, 260 F.Supp.2d 1, 2003 U.S. Dist. LEXIS 3962 (2003).

Issue of whether African-American employee was subjected to discrimination within District of Columbia presented questions of fact which could not be decided on employer's motion to dismiss employee's action alleging discrimination in violation of District of Columbia Human Rights Act (DCHRA) for lack of subject matter

jurisdiction. *Quarles v. Gen. Inv. & Dev. Co.*, 260 F.Supp.2d 1, 2003 U.S. Dist. LEXIS 3962 (2003).

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Amount of requested attorney fees could not be aggregated for determining jurisdictional amount in action in which insureds asserted that insurer violated D.C. Code 1981, § 1-2519(a)(1, 2) by offering health insurance policies to women at prices that were higher than or different from prices at which same policies were made available to similarly situated men. *National Organization for Women v. Mutual of Omaha Ins. Co.*, 612 F. Supp. 100, 1985 U.S. Dist. LEXIS 18886 (1985).

Claims of individual plaintiffs in class action brought against insurer alleging violation of D.C. Code 1981, § 1-2519(a)(1, 2) by selling health insurance policies to women at prices that are higher than or different from prices at which same policies are made available to similarly situated men could not be aggregated for purposes of establishing quantum necessary for federal jurisdiction, where action was diversity action, each class member could presumably have sued on her own behalf, and damage claims would be individualized. *National Organization for Women v. Mutual of Omaha Ins. Co.*, 612 F. Supp. 100, 1985 U.S. Dist. LEXIS 18886 (1985).

Proposition that jurisdiction will be found to exist unless court finds to legal certainty that matter in controversy cannot exceed sum or value of \$10,000 was inapplicable, where it was unclear what amount of damages plaintiffs sought. *National Organization for Women v. Mutual of Omaha Ins. Co.*, 612 F. Supp. 100, 1985 U.S. Dist. LEXIS 18886 (1985).

Terminated supervisor's age discrimination and retaliation lawsuit against the District of Columbia Department of Human Services (DHS) under the District of Columbia Human Rights Act was either barred by her election of an administrative remedy when she filed an

administrative complaint with the Office of Human Rights (OHR), which she alleged asserted such claims, or by the one-year statute of limitations under the Act if her OHR complaint did not assert such claims, given that she filed the lawsuit two and one-half years after her termination, as the jurisdiction of the court and the OHR under the Act were mutually exclusive, terminated supervisor did not withdraw her OHR complaint before the OHR decided it on the merits, and the OHR did not dismiss the complaint for administrative convenience. *Carter v. District of Columbia*, 980 A.2d 1217, 2009 D.C. App. LEXIS 472 (2009).

Jury trial rights.

It is assumed and taken for granted that the right to trial by jury is applicable to a case brought pursuant to the District of Columbia Human Rights Act. *Holt v. Life Care Servs. Corp.*, 121 WLR 1497 (Super. Ct. 1993).

Notice.

Letter informing campus security officer that if he could not return to duty after his FMLA leave ended, university could no longer hold his position, which meant he would be terminated based on his inability to return to duty, constituted clear and unequivocal notice to officer of his termination, and his wrongful termination claims under District of Columbia Human Rights Act (DCHRA) filed one year and one day thereafter were thus untimely. *Leftwich v. Gallaudet University*, 2012 WL 2930725 (2012).

District of Columbia Human Rights Act (DCHRA) claims asserted by two restaurant employees accrued no later than dates they were actually or constructively terminated, which was more than one year before action was filed, and because employees alleged they were harassed and threatened based on their religion during their employment, they could not claim for purposes of discovery rule that they were unaware of that discrimination until they were terminated. *Arencibia v. 2401 Rest. Corp.*, 699 F.Supp.2d 318, 2010 U.S. Dist. LEXIS 31369 (2010).

Employee did not sufficiently identify two site managers, who allegedly supported employee's supervisor in harassing employee, as respondents in her complaint filed with the District of Columbia Office of Human Rights (DCOHR) so as to provide adequate notice to managers and, thus, was not entitled to equitable tolling of the District of Columbia Human Rights Act's (DCHRA's) statute of limitations with regard to her claims against those managers, where the only references to managers in complaint, attached declaration, and charge of discrimination were vague innuendos of conspiring with supervisor to have employee fired and that managers were enlisted by supervisor to monitor employee. *Zelaya v. UNICCO Serv.*

Co., 587 F.Supp.2d 277, 2008 U.S. Dist. LEXIS 96495 (2008).

Employee sufficiently identified her former supervisor and company for which she had worked as respondents in her complaint with District of Columbia Office of Human Rights (DCOHR), so as to provide adequate notice to company and supervisor and entitle employee to equitable tolling of District of Columbia Human Rights Act's (DCHRA's) statute of limitations, though DCOHR charge of discrimination provided to company listed only company as respondent; employee noted attachment to complaint of declaration which expressly stated it was submitted in support of claims against company and supervisor, and employee detailed conduct by "Respondent's Building Operations Manager," which was a clear reference to supervisor. *Zelaya v. UNICCO Serv. Co.*, 587 F.Supp.2d 277, 2008 U.S. Dist. LEXIS 96495 (2008).

District of Columbia statute permitting a prospective plaintiff alleging unlawful discrimination to elect between filing complaint with Office of Human Resources or seeking judicial remedy did not displace notice requirement of Title II that written notice be filed with Office of Human Resources. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Preservation of action.

African-American employee's filing of race discrimination charge with the Equal Employment Opportunity Commission (EEOC) did not toll one year limitations period for bringing claims under District of Columbia Human Rights Act (DCHRA) against her individual supervisors at medical center, where charge only named medical center and did not name any individual supervisors as parties responsible. *Brown v. Children's Nat'l Med. Ctr.*, 773 F.Supp.2d 125, 2011 U.S. Dist. LEXIS 33628 (2011).

District of Columbia employee did not successfully withdraw his District of Columbia Office of Human Rights (DCOHR) complaint, as would permit him to pursue action in court under District of Columbia Human Rights Act (DCHRA), where he received probable cause determination from DCOHR prior to withdrawing complaint. *Adams v. District of Columbia*, 740 F.Supp.2d 173, 2010 U.S. Dist. LEXIS 102226 (2010).

District of Columbia employee's failure to withdraw his administrative charge with District of Columbia Office of Human Rights (DCOHR) would not be equitably excused, so as to permit employee to pursue District of Columbia Human Rights Act (DCHRA) claim in court, where employer did not take any active steps to prevent employee from withdrawing charge. *Adams v. District of Columbia*, 740 F.Supp.2d 173, 2010 U.S. Dist. LEXIS 102226 (2010).

District of Columbia Housing Authority (DCHA) waived on appeal its argument that the Department of Human Rights (DHR) was without authority to adjudicate employee's discrimination complaint due to his failure to consult an Equal Employment Opportunity (EEO) counselor before filing the complaint, even if failure to consult an EEO counselor was a mandatory administrative remedies exhaustion requirement, where the DCHA failed to raise the argument with the agency. *D.C. Hous. Auth. v. D.C. Office of Human Rights*, 881 A.2d 600, 2005 D.C. App. LEXIS 459 (2005).

Where letter written by Office of Human Rights to claimant, who alleged he had been discriminated against by his employer, indicated that Office had completed its investigation of the claim and found no probable cause, and where letter was received by claimant prior to his making any effort to withdraw complaint from Office, claimant failed to preserve his right to bring same action in court. *D.C. Code §§ 6-2284(b), 6-2296. Brown v. Capitol Hill Club*, 425 A.2d 1309, 1981 D.C. App. LEXIS 217 (1981).

Pretext.

Employer's decision to terminate employee from her employment at correctional treatment facility because of her insubordination and series of past disciplinary infractions was not pretext for retaliation for reporting unethical conduct between supervisor and another employee, and thus did not violate District of Columbia Human Rights Act (DCHRA). *Walston-Jackson v. CCA of Tenn., Inc.*, 664 F.Supp.2d 24, 2009 U.S. Dist. LEXIS 96264 (2009).

Managing partner's statement about financial services firm's desire to have partners serve for 20 or more years did not support finding of pretext or discriminatory intent required to support age discrimination claim under District of Columbia Human Rights Act (DCHRA), where there was no evidence that managing partner's statement was firm policy, and statement was stray comment made during course of four-hour morale boosting session to underline that "we don't want you to leave this place." *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 16, 2008 U.S. Dist. LEXIS 72859 (2008), affirmed by, remanded by 595 F.3d 370, 389 U.S. App. D.C. 213, 2010 U.S. App. LEXIS

2998, 93 Empl. Prac. Dec. (CCH) P43823, 108 Fair Empl. Prac. Cas. (BNA) 795 (2010).

Financial services firm's failure to promote 57-year-old associate on grounds that there was no business case for another partner in associate's unit during relevant period and that associate lacked minimum qualifications for promotion during relevant period was not pretext for age discrimination, in violation of District of Columbia Human Rights Act (DCHRA), even though firm had policy requiring all partners, but not associates, to retire in fiscal year in which they turned 60, and statistician's report indicated that individuals under 40 had three times higher "pass" rate than individuals over 40, where firm had no written policy barring candidates over 60 from consideration for promotion to partner, and statistician did not verify that pool of partnership candidates that provided basis for his analysis were actually those employees who were qualified, interested, or eligible to make partner. *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 16, 2008 U.S. Dist. LEXIS 72859 (2008), affirmed by, remanded by 595 F.3d 370, 389 U.S. App. D.C. 213, 2010 U.S. App. LEXIS 2998, 93 Empl. Prac. Dec. (CCH) P43823, 108 Fair Empl. Prac. Cas. (BNA) 795 (2010).

Remedies.

Under District of Columbia law, as predicted by federal district court, continuing violation theory was unavailable under District of Columbia Human Rights Act (DCHRA) for cases involving discrete retaliatory acts. *Coleman v. Potomac Elec. Power Co.*, 310 F.Supp.2d 154, 2004 U.S. Dist. LEXIS 4137 (2004), affirmed by 2004 U.S. App. LEXIS 21820 (D.C. Cir. Oct. 19, 2004).

Employee, who was full-time freelance graphic artist discharged due to racial discrimination in violation of District of Columbia Human Rights Act, was entitled to award of back pay from time of discharge until date of general layoff of freelance graphic artists five months later, rather than for eight-year period between discharge and date of judgment, even though employer rehired several of those it laid off; employer rehired only occasional part-time freelance artists, rather than full-time artists, and had not rehired anyone to do same job that employee lost. D.C. Code 1981, § 1-2556(b). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Employee, who was full-time freelance graphic artist discharged due to racial discrimination in violation of District of Columbia Human Rights Act, was entitled to award of back pay from time of discharge until date of general layoff of freelance graphic artists five months later, rather than for eight-year period between discharge and date of judgment, notwithstanding contention that, had he not been

discharged, employee would have been staff artist by time of layoff and, thus, not subject to layoff; no staff artist position became available between discharge and layoff, and employee would have been poor candidate for any position that had become available. D.C. Code 1981, § 1-2556(b). *Shepherd v. American Broadcasting Cos.*, 862 F. Supp. 486, 1994 U.S. Dist. LEXIS 8039 (1994).

Standing.

Fair housing advocacy organization's alleged injuries from landlord's refusal to rent to prospective tenants using federally funded rental assistance vouchers, false representations to organization's testers that qualifying apartments were not available, and conduct that diverted scarce resources from organization's central mission were sufficient for Article III standing, in housing discrimination suit against landlord, under District of Columbia Human Rights Act (DCHRA), only for injuries occurring after organization's reinstatement as nonprofit corporation, but not retroactively during period when articles of incorporation were revoked when organization had no legal existence. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

Standing under the District of Columbia Human Rights Act (DCHRA) is co-extensive with Article III standing. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

White person who is injured as result of efforts to defend rights of minority has standing to sue under § 1981. 42 U.S.C. § 1981. *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Lessee sufficiently alleged a direct injury to have standing to assert a racial discrimination claim under the District of Columbia Human Rights Act (DCHRA) against lessors, though lessee was not the target of the alleged discrimination, where lessor sought to sell its sandwich shop business to two individuals of Korean descent, but lessors refused to provide consent to assignment of retail lease. D.C. Code 1981, §§ 1-2502(21), 1-2515(a, b), 1-2556. *Executive Sandwich Shoppe, Inc. v. Carr Realty Corp.*, 749 A.2d 724, 2000 D.C. App. LEXIS 89 (2000).

Testers engaged by fair employment organization to pose as job seekers, in effort to investigate sex discrimination allegations against employment agency, had standing under District of Columbia Human Rights Act (DCHRA) to bring sex discrimination action against employment agency's owner based on owner's alleged violation of their statutory right to be free from sexual harassment. D.C. Code 1981, § 1-2556(a). *Molovsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Fair employment organization had standing under District of Columbia Human Rights Act (DCHRA) to bring sex discrimination action against owner of employment agency based on frustration of organization's purpose, where organization had increased its counseling of sex discrimination victims and its educational efforts in order to counteract negative message sent to public by owner's alleged sexual harassment of job seekers. D.C. Code 1981, § 1-2556(a). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Standing under District of Columbia Human Rights Act (DCHRA) is coextensive with standing under Article III of Constitution. U.S.C. Const. Art. 3, § 1 et seq.; D.C. Code 1981, § 1-2556(a). *Molovinsky v. Fair Empl. Council*, 683 A.2d 142, 1996 D.C. App. LEXIS 194 (1996).

Statute of limitations.

Metropolitan Police Department (MPD) officer's filing of Equal Employment Opportunity Commission (EEOC) charged tolled one-year statute of limitations for her claims under District of Columbia Human Rights Act (DCHRA). *Craig v. District of Columbia*, 2012 WL 3126779 (2012).

African-American former employee's administrative complaint was not pending after he received letter of determination from District of Columbia Office of Human Rights (DCOHR) finding "no probable cause" to believe he had been subjected to a hostile work environment or retaliation, and therefore, one year limitations period for his claim alleging violations of the District of Columbia Human Rights Act (DCHRA) was not tolled after receipt of letter; letter explicitly informed employee OHR had completed investigation and that he could apply for reconsideration, which he did not do. *Davis v. Joseph J. Magnolia, Inc.*, 815 F.Supp.2d 270, 2011 U.S. Dist. LEXIS 113388 (2011).

Although District of Columbia Human Rights Act (DCHRA) tolled one-year statute of limitations for filing claim under DCHRA, it did not expressly toll statute of limitations applicable to claims under Rehabilitation Act, and thus District of Columbia employee's claims under Rehabilitation Act were not tolled during pendency of his administrative proceedings before District of Columbia Office of Human Rights (DCOHR). *Adams v. District of Columbia*, 740 F.Supp.2d 173, 2010 U.S. Dist. LEXIS 102226 (2010).

Former employee's retaliation claim before the District of Columbia Office of Human Rights (DCOHR) concerning lapses of insurance benefits accrued, and 300-day limitations period began to run, on dates employee discovered the lapses. *Zelaya v. UNICCO Serv. Co.*,

733 F.Supp.2d 121, 2010 U.S. Dist. LEXIS 85739 (2010).

Former employee's hostile work environment claim against employer under District of Columbia Human Rights Act (DCHRA) accrued, at latest, when she was suspended, where employee did not allege or offer proof of incidents or other forms of harassment occurring after date she was suspended. *Walston-Jackson v. CCA of Tenn., Inc.*, 664 F.Supp.2d 24, 2009 U.S. Dist. LEXIS 96264 (2009).

Timely filing of a charge with the Equal Employment Opportunity Commission (EEOC), and the automatic cross-filing of a claim with D.C. Office of Human Rights (DCOHR) that follows, is sufficient to toll the one-year statute of limitations for filing a claim under District of Columbia Human Rights Act (DCHRA). *Ellis v. Georgetown Univ. Hosp.*, 631 F.Supp.2d 71, 2009 U.S. Dist. LEXIS 58011 (2009).

Under District of Columbia law, a hostile work environment claim under the District of Columbia Human Rights Act (DCHRA) is treated as an indivisible whole for purposes of the limitations period, even if an initial portion of that claim accrued outside the limitations period. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

Employee's District of Columbia Human Rights Act (DCHRA) complaint against his former employer and former supervisor was not subject to pre-discovery dismissal on limitations grounds, even though it did not provide specific dates of all alleged discriminatory acts, where nothing in the complaint foreclosed proof that discriminatory acts occurred during the limitations period. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

One-year limitations period under District of Columbia Human Rights Act (DCHRA), not three-year statute of limitations governing breach of contract claims, would be borrowed for claim of interference with ERISA-protected rights. *Cox v. Graphic Communs. Conf. of the Int'l Bhd. of Teamsters*, 603 F.Supp.2d 23, 2009 U.S. Dist. LEXIS 25469 (2009).

District of Columbia Human Rights Act (DCHRA) statute of limitations did not bar high school principal's claims; her filing with Office of Human Rights (OHR) alleging her discriminatory discharge approximately ten months earlier was timely and tolled limitations period, and following subsequent erroneous administrative dismissal of her claim she provided documentation to court of clerical mistake, proper right-to-sue letter was issued, and case was reopened. *Musgrove v. Dist. of Columbia*, 602 F.Supp.2d 141, 2009 U.S. Dist. LEXIS 20920 (2009), vacated in part by 775 F. Supp.

2d 158, 2011 U.S. Dist. LEXIS 37828, 111 Fair Empl. Prac. Cas. (BNA) 1847 (D.D.C. 2011).

One-year statute of limitations on employee's District of Columbia claims of sex discrimination, rather than District of Columbia's "catch-all" statute of limitations of three years, applied to employee's employment discrimination claim against employer. *Potts v. Howard Univ. Hosp.*, 598 F.Supp.2d 36, 2009 U.S. Dist. LEXIS 13147 (2009).

University's actions that occurred within one year before professor filed race and national origin discrimination action under District of Columbia Human Rights Act (DCHRA), including university's failure to respond to professor's letters requesting clarification of her employment status and termination of her health benefits, were not discriminatory employment practices for purposes of DCHRA's one-year limitations period. *Munoz v. Bd. of Trs.*, 590 F.Supp.2d 21, 2008 U.S. Dist. LEXIS 97865 (2008), affirmed by 427 Fed. Appx. 1, 2011 U.S. App. LEXIS 6910 (D.C. Cir. 2011).

Employee's District of Columbia Human Rights Act (DCHRA) claim against employer was tolled for statute of limitations purposes between the date when employee filed her complaint with the District of Columbia Office of Human Rights (DCOHR) and the date on which she withdrew the complaint. *Zelaya v. UNICCO Serv. Co.*, 587 F.Supp.2d 277, 2008 U.S. Dist. LEXIS 96495 (2008).

Terminated employee's District of Columbia Human Rights Act (DCHRA) claims were not time-barred, as timely filing charge with Equal Employment Opportunity Commission (EEOC), of which District of Columbia Office of Human Rights (OHR) promptly received copy under existing work-share agreement between federal and local agencies, tolled the one-year limitations period. *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

Employee's claim that he was denied promotion as result of age discrimination accrued under District of Columbia Human Rights Act (DCHRA) on date he learned that he would not be promoted, rather than on date that employer publicly announced list of promotions. *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

Statute of limitations begins to run under District of Columbia Human Rights Act (DCHRA) when plaintiff is given unequivocal notice of adverse decision, not on decision's effective date. *Ware v. Nicklin Assocs.*, 580 F.Supp.2d 158, 2008 U.S. Dist. LEXIS 77604 (2008).

District of Columbia Human Rights Act's (DCHRA) one-year statute of limitations begins to run at the time the plaintiff is made aware of the allegedly discriminatory act. *Di Lella v. Univ. of the Dist. of Columbia David A. Clarke*

Sch. of Law, 570 F.Supp.2d 1, 2008 U.S. Dist. LEXIS 59143 (2008), dismissed by 2009 U.S. Dist. LEXIS 90144 (D.D.C. Sept. 30, 2009).

One-year statute of limitations on law student's claims against school under the District of Columbia Human Rights Act (DCHRA) began to run when the law school's last allegedly discriminatory act took place, namely when the faculty's denial of her appeal of discipline for plagiarism was communicated to her attorney. *Di Lella v. Univ. of the Dist. of Columbia David A. Clarke Sch. of Law*, 570 F.Supp.2d 1, 2008 U.S. Dist. LEXIS 59143 (2008), dismissed by 2009 U.S. Dist. LEXIS 90144 (D.D.C. Sept. 30, 2009).

Fair housing advocacy organization's claims against landlord for discriminating against prospective tenants on basis of source of income accrued, commencing under two-year limitations period of District of Columbia Human Rights Act (DCHRA), when landlord allegedly discriminated against organization's testers posing as prospective tenants desiring to use federally funded rental assistance vouchers. *Bourbeau v. Jonathan Woodner Co.*, 549 F.Supp.2d 78, 2008 U.S. Dist. LEXIS 31574 (2008).

One-year statute of limitations applied to employee's District of Columbia Human Rights Act (DCHRA) claims. *Byrd v. District of Columbia*, 538 F.Supp.2d 170, 2008 U.S. Dist. LEXIS 19118 (2008).

One-year statutes of limitations applied to District of Columbia employee's claims under District of Columbia Human Rights Act (DCHRA) and common law of slander. *Savoy v. VMT Long Term Care Mgmt. Co.*, 522 F.Supp.2d 211, 2007 U.S. Dist. LEXIS 86630 (2007).

For purposes of a discriminatory termination claim under the District of Columbia Human Rights Act (DCHRA), where an employee is notified that her employment will end on a date certain in the future, the operative fact triggering the statute of limitations is not the formal termination date, but rather, the moment employee learned of definite injury. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

The statute of limitations begins to run on a claim for discriminatory termination under the District of Columbia Human Rights Act (DCHRA) when the employee is given unequivocal notice of the termination decision, even if one of the effects of the decision, such as the eventual loss of the employee's position, does not occur until later. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

African-American employee's claims under District of Columbia Human Rights Act (DCHRA), which alleged that employer's refusal to increase pay for job offered to employee after elimination of her position was race discrimination, accrued, for statute of limitations purposes, when human resources department notified employee of its final decision that she would not receive pay increase, rather than on later date when employee's termination became effective. *Powell v. Am. Red Cross*, 518 F.Supp.2d 24, 2007 U.S. Dist. LEXIS 42543 (2007), appeal dismissed by 2008 U.S. App. LEXIS 28131 (D.C. Cir. Mar. 21, 2008).

One-year statute of limitations for unlawful discrimination claims under District of Columbia Human Rights Act (DCHRA) barred former employee's claims against former employer alleging quid pro quo sexual harassment and hostile work environment, which were based upon discrete acts that occurred outside limitations period. *Akonji v. Unity Healthcare, Inc.*, 517 F.Supp.2d 83, 2007 U.S. Dist. LEXIS 30060 (2007).

Allegation, in civil rights action, that missionary organization's termination of missionary violated the District of Columbia Human Rights Act's (DCHRA) prohibition of race and sex discrimination, was time-barred; claims accrued more than one year before missionary filed her complaint. *Nevius v. Afr. Inland Mission Int'l*, 511 F.Supp.2d 114, 2007 U.S. Dist. LEXIS 70084 (2007).

Statute of limitations on attorney's claim for interference with ERISA-protected rights began to run in year she learned that she was no longer eligible to participate in her former employer's retirement plans because she had switched to independent contractor status; thus, because her claim accrued more than sixteen years before she filed suit, it was time-barred under either District of Columbia's three-year statute of limitations for wrongful discharge claims or one-year statute of limitations under District of Columbia Human Rights Act (DCHRA). *Walker v. Pharm. Research & Mfrs. of Am.*, 439 F.Supp.2d 103, 2006 U.S. Dist. LEXIS 47982 (2006).

One-year limitations period for black Democratic applicant's discrimination and retaliation claims under the District of Columbia Human Rights Act (DCHRA) began to run when employer allegedly refused to hire applicant in violation of DCHRA. *Morgan v. Fed. Home Loan Mortg. Corp.*, 172 F.Supp.2d 98, 2001 U.S. Dist. LEXIS 17310 (2001), affirmed by 328 F.3d 647, 356 U.S. App. D.C. 109, 2003 U.S. App. LEXIS 8748, 84 Empl. Prac. Dec. (CCH) P41515, 105 Fair Empl. Prac. Cas. (BNA) 954 (2003).

Statute of limitations of three years under District of Columbia law for personal injury actions, rather than one-year statute of limita-

tions for defamation, assault, battery, malicious prosecution, false arrest, and false imprisonment, governed § 1981 claim alleging discharge in retaliation for opposition to discriminatory treatment of black employee. 42 U.S.C. § 1981; D.C. Code 1981, § 12-301(4, 8). *Alder v. Columbia Historical Soc.*, 690 F. Supp. 9, 1988 U.S. Dist. LEXIS 9252 (1988).

Appropriate statute of limitations for former District of Columbia (DC) employee's disability discrimination claims against DC under Rehabilitation Act, which did not specify the applicable limitations period, was the one-year limitations period set out in District of Columbia's Human Rights Act (HRA) for claims of unlawful discrimination, as opposed to default choice of DC's three-year limitations period for personal injury claims; a Rehabilitation Act claim was far more similar to an HRA claim than it was to an ordinary personal injury claim, and borrowing HRA's limitations period would not stymie policies underlying Rehabilitation Act. *Jaiyeola v. District of Columbia*, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Employee's reasonable accommodation causes of action under District of Columbia Human Rights Act (DCHRA) accrued, and one-year limitations period began to run, when employee knew or should have known that employer had rejected her reasonable accommodation requests for voice-recognition software, part-time scheduling, and ergonomic worksite evaluation. *Cesarano v. Reed Smith LLP*, 990 A.2d 455, 2010 D.C. App. LEXIS 87 (2010).

Timely filing by former employee of complaint, alleging national origin discrimination by former employer, with the Equal Employment Opportunity Commission (EEOC) sufficed to toll one-year statute of limitations applicable to court actions alleging discrimination under the District of Columbia Human Rights Act (DCHRA), where D.C. Office of Human Rights (DC OHR) promptly received a copy of the complaint from the EEOC under existing agreement between the federal and local agencies. *Estenos v. PAHO/WHO-FCU*, 952 A.2d 878, 2008 D.C. App. LEXIS 281 (2008).

Physician's allegations of sex discrimination in pay against health corporation and its subsidiaries that operated hospital were not subject to the continuing violation doctrine, but rather each paycheck constituted a discrete allegedly discriminatory act, and thus, any discrimination claims based on paychecks that she received more than a year from filing suit were precluded by the statute of limitations. *Zuurbier v. Medstar Health, Inc.*, 895 A.2d 905, 2006 D.C. App. LEXIS 149 (2006).

Employee's hostile work environment claim brought under the District of Columbia Human Rights Act (DCHRA) was timely filed because employee's testimony demonstrated that super-

visor's sexually improper behavior occurred within one year of when he filed his claim, and thus, employee's claim was not barred by DCHRA's one-year statute of limitations. *Psychiatric Inst. v. D.C. Comm'n on Human Rights*, 871 A.2d 1146, 2005 D.C. App. LEXIS 143 (2005).

One-year statute of limitations period for former employee's action for discriminatory and retaliatory discharge began to run at the time employee was terminated, where employee testified that her own immediate conclusion after being discharged was that her termination was discriminatory. *Brown v. NAS*, 844 A.2d 1113, 2004 D.C. App. LEXIS 71 (2004).

If an act contributing to the hostile work environment claim occurs within the filing period, the entire time period of the hostile environment may be considered by the court for the purposes of determining liability, and thus, it does not matter, for purposes of the District of Columbia Human Rights Act (DCHRA), that some of the component acts of the hostile work environment fall outside the statutory time period; even if there are significant gaps in the occurrence of acts constituting the hostile work environment claim, the filing of that claim still may be timely given that this type of unlawful employment practice cannot be said to occur on any particular day. *Lively v. Flexible Packaging Ass'n*, 830 A.2d 874, 2003 D.C. App. LEXIS 536 (2003), remanded by 930 A.2d 984, 2007 D.C. App. LEXIS 551 (D.C. 2007).

Employee's hostile work environment claim brought under the District of Columbia Human Rights Act (DCHRA) was timely filed, even though an initial portion of the conduct which contributed to the hostile environment took place outside the one-year statute of limitations period, where one act contributing to the claim fell within the requisite limitations period. *Lively v. Flexible Packaging Ass'n*, 830 A.2d 874, 2003 D.C. App. LEXIS 536 (2003), remanded by 930 A.2d 984, 2007 D.C. App. LEXIS 551 (D.C. 2007).

The limitation period for a civil action brought pursuant to the Human Rights Act is one year. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Employee's sexual orientation discrimination claim under Human Rights Act was time barred since, other than his termination, the acts of sexual orientation discrimination of which he complained occurred outside the one-year limitations period and employee did not present evidence of continuing violations which extended into the one year period before he filed suit. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

A continuing violation exists, for purposes of extending limitations period under Human Rights Act, where there is a series of related acts, one or more of which falls within the

limitations period, or the maintenance of a discriminatory system both before and during the statutory period, and such discrimination may not be limited to isolated incidents, but must pervade a series or pattern of events which continue into the filing period. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

A plaintiff attempting to establish a continuing violation, for purpose of extending limitations period under Human Rights Act, must demonstrate continuous and repetitious wrong with damages flowing from the act as a whole, rather than from each individual act. *Boulton v. Inst. of Int'l Educ.*, 808 A.2d 499, 2002 D.C. App. LEXIS 557 (2002).

Running of statute of limitations contained in the District of Columbia Human Rights Act for bringing a suit alleging employment discrimination is not stayed during the pendency of an administrative complaint in the Office of Human Rights; proviso stating that an administrative complainant maintains all rights to bring suit, as if no complaint was filed, makes clear that a complainant who files an administrative complaint and then withdraws it in timely fashion is on no better footing than a complainant who passes up the administrative process and elects to sue. D.C. Code 1981, §§ 1-2544, 1-2556(a). *Anderson v. U.S. Safe Deposit Co.*, 552 A.2d 859, 1989 D.C. App. LEXIS 3 (1989).

Sufficiency of evidence.

In determining whether employee has produced sufficient evidence for reasonable jury to find that employer's asserted non-discriminatory reason was not actual reason and that employer intentionally discriminated against employee, in violation of District of Columbia Human Rights Act (DCHRA), court must consider whether jury could infer discrimination from (1) employee's prima facie case, (2) any evidence employee presents to attack employer's proffered explanation, and (3) any further evidence of discrimination that may be available to employee. *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 16, 2008 U.S. Dist. LEXIS 72859 (2008), affirmed by, remanded by 595 F.3d 370, 389 U.S. App. D.C. 213, 2010 U.S. App. LEXIS 2998, 93 Empl. Prac. Dec. (CCH) P43823, 108 Fair Empl. Prac. Cas. (BNA) 795 (2010).

Evidence was sufficient to establish that manager's sexual harassment of former employee had caused her emotional injury, in trial of former employee's sexual harassment/hostile work environment, retaliatory discharge, and negligent hiring, training and supervision action against employer, manager and employer's officers; former employee testified to the indignity and distress she experienced from manager's repeated sexual advances or innuendos,

employee's friend testified that employee was agitated and upset when the unwanted advances were taking place, and employee's psychiatrist testified that psychosocial stressors at work including employee's ability to work with her manager contributed to employee's difficulty sleeping, trouble concentrating and loss of appetite. *Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 2008 D.C. App. LEXIS 411 (2008).

Summary judgment.

Genuine issue of material fact as to whether employer's reasons for terminating employment of 69-year-old deputy administrator, based on a "functional reorganization" of her department, were legitimate, and non-discriminatory, or whether they were pretext for age discrimination, precluded summary judgment in employee's suit alleging violations of ADEA and District of Columbia Human Rights Act (DCHRA). *Bego v. District of Columbia*, 725 F.Supp.2d 31, 2010 U.S. Dist. LEXIS 73541 (2010).

Genuine issue of material fact as to whether employer's failure to promote associate to partner in 2001 was inevitable consequence of another associate's promotion in 2000 and whether associate had unequivocal notice of his non-promotion in 2001 before expiration of applicable limitations period precluded summary judgment on limitations grounds in associate's age discrimination action under District of Columbia Human Rights Act (DCHRA). *Murphy v. PricewaterhouseCoopers, LLP*, 580 F.Supp.2d 16, 2008 U.S. Dist. LEXIS 72859 (2008), affirmed by, remanded by 595 F.3d 370, 389 U.S. App. D.C. 213, 2010 U.S. App. LEXIS 2998, 93 Empl. Prac. Dec. (CCH) P43823, 108 Fair Empl. Prac. Cas. (BNA) 795 (2010).

Genuine issues of material fact as to whether computer programmer/analyst, who was suffering from chronic pancreatitis and a condition variously diagnosed as ulcerative colitis or Crohn's disease, was capable of performing her job for law firm with a reasonable accommodation, when she requested a modified work schedule and permission to telecommute after she had been out on medical leave for at least

five months, and whether programmer/analyst was requesting a new accommodation based on changed circumstances or was only renewing a request previously denied, precluded summary judgment for law firm on issues of whether programmer/analyst had a reasonable accommodation claim based on such incident under the District of Columbia Human Rights Act (DCHRA), and whether such claim was barred by DCHRA's one-year statute of limitations. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 2009 D.C. App. LEXIS 450 (2009).

Genuine issue of material fact existed as to whether former employer's termination of former employee's job as a cook was adverse conduct relevant to former employee's claim of a hostile work environment based on sexual harassment, which went to whether former employee timely filed his claim against employer under the District of Columbia Human Rights Act (HRA), precluding summary judgment on the issue of whether the claim was barred by the HRA's one-year limitations period for filing a private cause of action. *Ghisi v. Holy Trinity Catholic Church*, 139 WLR 1673 (Super. Ct. 2011).

Venue.

In employee's employment discrimination action under the District of Columbia Human Rights Act (DCHRA), venue was proper in the District of Columbia, rather than the District of Maryland; action was originally brought in District of Columbia, and the scales balancing the public and private interests either tilted slightly toward venue in the District of Columbia or were in equipoise, as material events occurred in both districts, the geographic distance between the courthouses was small, making it unlikely that a transfer would materially affect the convenience of the parties or witnesses, or the ability to obtain sources of proof, District of Columbia court might have been more familiar with the law governing employee's DCHRA claim, and each district shared some local interest in deciding the case. *Miller v. Insulation Contrs., Inc.*, 608 F.Supp.2d 97, 2009 U.S. Dist. LEXIS 33524 (2009).

§ 2-1403.17. Referral to licensing agencies.

(a) Whenever it appears that the holder of a permit, license, franchise, benefit, or advantage issued by any agency or authority of the government of the District is a person against whom the Office has made a finding of probable cause pursuant to § 2-1403.05, the Office, notwithstanding any other action it may take or may have taken under the authority of the provisions of this chapter, may refer to the proper agency or authority the facts and identities of all persons involved in the complaint for such action as such agency or authority, in its judgment, considers appropriate, based upon the facts thus disclosed to it.

(b) The Commission, upon a determination of a violation of any of the provisions of this chapter by a holder of, or applicant for any permit, license, franchise, benefit, exemption, or advantage issued by or on behalf of the government of the District of Columbia, and upon failure of the respondent to correct the unlawful discriminatory practice and comply with its order, in accordance with § 2-1403.15(a), shall refer this determination to the appropriate agency or authority. Such determination shall constitute prima facie evidence that the respondent, with respect to the particular business in which the violation was found, is not operating in the public interest. Such agency or authority shall, upon notification, issue to said holder or applicant an order to show cause why such privileges related to that business should not be revoked, suspended, denied or otherwise restricted.

(Dec. 13, 1977, D.C. Law 2-38, title III, § 317, 24 DCR 6038.)

Section references. — This section is referred to in § 2-1402.23.

Prior Codifications. — 1981 Ed., § 1-2557. 1973 Ed., § 6-2297.

Legislative history of Law 2-38. — For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

CASE NOTES

Notice.

A plaintiff bringing a civil action for a Title II claim of discrimination in the District of Columbia must first file written notice with the Office of Human Rights at least thirty days

before bringing any action in federal court. *Hollis v. Rosa Mexicano DC, LLC*, 582 F.Supp.2d 22, 2008 U.S. Dist. LEXIS 86148 (2008).

Subchapter IV. Commission on Human Rights.

§ 2-1404.01. Establishment of the Commission on Human Rights.

There is hereby established, in the Executive Branch of the District government, a Commission on Human Rights.

(Dec. 13, 1977, D.C. Law 2-38, title IV, § 401, as added Dec. 7, 2004, D.C. Law 15-216, § 2(b), 51 DCR 9123.)

Legislative history of Law 15-216. — Law 15-216, the “Commission on Human Rights Establishment Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-51, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second read-

ings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-521 and transmitted to both Houses of Congress for its review. D.C. Law 15-216 became effective on December 7, 2004.

§ 2-1404.02. Purpose and functions.

The Commission shall serve as an impartial forum for the hearing and deciding of cases of unlawful discrimination in employment, real estate transactions, public accommodations, or educational institutions. The Commission shall hear such cases following a determination by the Office that

there is probable cause to believe that an act of unlawful discrimination has occurred. In hearing and deciding such cases, the Commission shall follow the procedures set forth and use, in its discretion, the powers and authority provided in subchapter III of Unit A of this chapter.

(Dec. 13, 1977, D.C. Law 2-38, title IV, § 402, as added Dec. 7, 2004, D.C. Law 15-216, § 2(b), 51 DCR 9123.)

Legislative history of Law 15-216. — For D.C. Law 15-216, see notes following § 2-1404.01.

§ 2-1404.03. Composition and appointment.

(a) The Commission shall consist of 15 members, appointed by the Mayor and confirmed by the Council, in accordance with § 1-523.01.

(b) The Commission members shall be residents of the District of Columbia who have a demonstrated background or interest in human rights.

(c) The Commission members shall serve 3-year terms. The terms shall be staggered so that 5 positions expire on December 31 of each year.

(d) The Mayor shall designate one member to serve, at the Mayor's pleasure, as Chairperson of the Commission.

(e) Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of the term.

(f) Commission members who began their service before December 7, 2004, shall serve the remainder of their terms.

(g) Commission members shall serve without compensation, but shall be eligible for reimbursement of expenses as provided in § 1-611.08(d).

(Dec. 13, 1977, D.C. Law 2-38, title IV, § 403, as added Dec. 7, 2004, D.C. Law 15-216, § 2(b), 51 DCR 9123.)

Legislative history of Law 15-216. — For D.C. Law 15-216, see notes following § 2-1404.01.

§ 2-1404.04. Organization.

(a) At the initial meeting of each year, the Commission shall determine its organization and name its officers, other than the Chairperson. The officers serving on December 7, 2004, shall serve until the initial meeting of the following year.

(b) The Commission shall meet at the invitation of the Chairperson or a majority of the members.

(c) The Commission may establish subcommittees to review issues and make recommendations to the Commission.

(Dec. 13, 1977, D.C. Law 2-38, title IV, § 404, as added Dec. 7, 2004, D.C. Law 15-216, § 2(b), 51 DCR 9123.)

Legislative history of Law 15-216. — For D.C. Law 15-216, see notes following § 2-1404.01.

Unit B. Office of Human Rights.

§ 2-1411.01. Establishment of the Office of Human Rights.

(a) Pursuant to § 1-204.04(b), there is hereby established, in the Executive Branch of the government of the District of Columbia, an Office of Human Rights under the supervision of a Director, who shall carry out the functions and authorities assigned to the Office. The Office of Human Rights (“Office”) is established as a separate agency as of October 1, 1999.

(b) The Director shall have full authority over the Office and all functions and personnel assigned thereto, including the power to redelegate to other employees and officials of the Office such powers and authority as in the judgment of the Director are warranted in the interests of efficiency and sound administration.

(Oct. 20, 1999, D.C. Law 13-38, § 202, 46 DCR 6373.)

Emergency legislation. — For temporary (90-day) addition of subchapter IV, consisting of §§ 1-2571 to 1-2576 1981 Ed., see §§ 202 to 207 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

Legislative history of Law 13-38. — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of

the Whole. The Bill was adopted on first and second readings on May 11, 1999, and June 22, 1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

Short title. — Section 201 of D.C. Law 13-38 provided: “This subtitle may be cited as the ‘Office of Human Rights Establishment Act of 1999.’”

§ 2-1411.02. Purpose.

The purpose of the Office is to secure an end to unlawful discrimination in employment, housing, public accommodations, and educational institutions for any reason other than that of individual merit. The Office shall seek to eradicate discrimination on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression (as defined in § 2-1401.02(12A)), familial status, family responsibilities, matriculation, political affiliation, physical disability, source of income, and place of residence or business.

(Oct. 20, 1999, D.C. Law 13-38, § 203, 46 DCR 6373; Apr. 24, 2007, D.C. Law 16-305, § 12, 53 DCR 6198; June 25, 2008, D.C. Law 17-177, § 5, 55 DCR 3696.)

Effect of amendments. — D.C. Law 16-305 substituted “disability” for “handicap”.

D.C. Law 17-177 substituted “sexual orientation, gender identity or expression (as defined in § 2-1401.02(12A))” for “sexual orientation”.

Emergency legislation. — For temporary

(90-day) addition of subchapter IV, see notes following § 2-1411.01.

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1411.01.

Legislative history of Law 16-305. — For Law 16-305, see notes following § 2-301.07.

Legislative history of Law 17-177. — Law 17-177, the “Prohibition of Discrimination on the Basis of Gender Identity and Expression Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-330, which was referred to the Committee on Workforce Development and Government Operations. The

Bill was adopted on first and second readings on February 5, 2008, and March 4, 2008, respectively. Signed by the Mayor on March 19, 2008, it was assigned Act No. 17-329 and transmitted to both Houses of Congress for its review. D.C. Law 17-177 became effective on June 25, 2008.

§ 2-1411.03. Functions.

The functions of the Office shall be to:

(1) Educate the public, including District residents and employers, about Unit A of this chapter (“Human Rights Act”);

(2) Undertake investigations and public hearings on racial, religious, or ethnic group tensions, prejudice, intolerance, bigotry, disorder, and on any form of unlawful discrimination pursuant to the Human Rights Act;

(3) Receive, review, and investigate complaints of unlawful discrimination in employment, housing, public accommodations, or educational institutions;

(4) Receive and investigate complaints of violations of § 32-501 et seq. and § 32-1201 et seq. and take appropriate enforcement action regarding these complaints;

(5) Mediate complaints of unlawful discrimination in employment, housing, public accommodations, or educational institutions to help parties to a complaint reach a voluntary settlement;

(6) Conciliate complaints of unlawful discrimination in employment, housing, public accommodations, or educational institutions, after the Office has made a finding of probable cause to believe that an act of unlawful discrimination has occurred, to help the parties to a complaint reach a voluntary settlement;

(7) Certify a complaint to the Office of the Corporation Counsel for legal action needed, in the Director’s judgment, to preserve the status quo or to prevent irreparable harm to a party to the complaint;

(8) Forward to the Commission on Human Rights, for a hearing, decision, and order, any complaint that has resulted in a finding of probable cause by the Office; and

(9) Issue, adopt, promulgate, amend, and rescind such rules and procedures as the Director deems necessary to effectuate the provisions of this subtitle, in accordance with procedures promulgated pursuant to subchapter I of Chapter 5 of Title 2.

(Oct. 20, 1999, D.C. Law 13-38, § 204, 46 DCR 6373; June 19, 2001, D.C. Law 13-313, § 8, 48 DCR 1873.)

Effect of amendments. — D.C. Law 13-313 added par. (9).

Emergency legislation. — For temporary (90-day) addition of subchapter IV, see notes following § 2-1411.01.

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1411.01.

Legislative history of Law 13-313. — For D.C. Law 13-313, see notes following § 2-1401.02

CASE NOTES

Due process.

Former teacher was not denied due process in the adjudication of his employment discrimination claims by the District of Columbia's Office of Employee Appeals (OEA) and Office of Human Rights (OHR), despite the teacher's allegations that the OHR refused to consider his 1994 Equal Employment Opportunity (EEO) complaint as the genesis of later retaliatory actions, relied on false affidavits and tes-

timony, and prevented him from cross-examining a principal to prove that she was lying; the District held the hearings required by its statutes and regulations, received and reviewed the appropriate evidence, and issued reasoned written decisions subject to administrative and judicial review. *Bagenstose v. District of Columbia*, 503 F.Supp.2d 247, 2007 U.S. Dist. LEXIS 59874 (2007), affirmed by 2008 U.S. App. LEXIS 2914 (D.C. Cir. Feb. 5, 2008).

§ 2-1411.04. Transfers.

All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Human Rights and Local Business Development for the human rights functions set out in Reorganization Plan No. 1 of 1989, effective November 1, 1989, are hereby transferred to the Office.

(Oct. 20, 1999, D.C. Law 13-38, § 205, 46 DCR 6373.)

Emergency legislation. — For temporary (90-day) addition of subchapter IV, see notes following § 2-1411.01.

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1411.01.

§ 2-1411.05. Organization.

(a) There are hereby established the following 5 primary organizational functions in the Office:

(1) The Office of the Director, which sets overall policy and performance targets for the Office, supervises and evaluates staff, administers the budget, and promotes conciliation after a determination of probable cause has been reached.

(2) Education and Research, which studies patterns of discrimination in employment, public accommodations, and educational institutions, and educates District residents, employers, community groups, and other concerned parties about the Human Rights Act and federal anti-discrimination laws in order to prevent unlawful discrimination.

(3) Intake, which counsels prospective complainants on the Office's functions and statutory responsibilities, evaluates the complainants' allegation of unlawful discrimination, and completes the forms and procedures necessary for the filing of a complaint;

(4) Mediation, which trains and oversees the activities of mediators who assist the parties to a complaint in trying to reach a voluntary settlement; and

(5) Investigations, which solicits and evaluates evidence provided by the complainant and respondent to prepare a written determination about whether there is probable cause to believe that the respondent has violated the Human Rights Act.

(b) The Director, in the performance of his or her duties and functions, is

authorized to restructure the organizational components of the Office as he or she deems necessary to improve the quality of services.

(Oct. 20, 1999, D.C. Law 13-38, § 206, 46 DCR 6373.)

Emergency legislation. — For temporary (90-day) addition of subchapter IV, see notes following § 2-1411.01.

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1411.01.

§ 2-1411.06. Abolishment of the Department of Human Rights and Local Business Development.

Pursuant to § 1-204.04(b), the Council hereby abolishes the Department of Human Rights and Local Business Development, established under Reorganization Plan No. 1 of 1989, effective November 1, 1989. The Department of Human Rights and Local Business Development is abolished as of October 1, 1999.

(Oct. 20, 1999, D.C. Law 13-38, § 207, 46 DCR 6373.)

Emergency legislation. — For temporary (90-day) addition of subchapter IV, see notes following § 2-1411.01.

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1411.01.

Unit C. Disability Rights Protection.

§ 2-1431.01. Definitions.

For the purposes of this unit, the term:

(1) “ADA” means the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12101 et seq.).

(2) “ADA Compliance Program” means the program established by § 2-1431.02.

(3) “Agency” means all agencies and instrumentalities of the District government.

(4) “Disability” means, with respect to an individual:

(A) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) A record of such an impairment; or

(C) Being regarded as having such an impairment.

(5) “Human Rights Act” means Unit A of this chapter [§ 2-1401.01 et seq.].

(6) “Mayor’s Committee on Persons with Disabilities” means the Mayor’s Committee on Persons with Disabilities, established by Mayor’s Order 88-245 (November 16, 1998), and amended by Mayor’s Order 2002-79 (April 15, 2002).

(7) “Office” means the Office of Disability Rights established by § 2-1431.03.

(8) “Office of Human Rights” means the Office of Human Rights established by § 2-1411.01.

(9) “Olmstead Compliance Plan” means a comprehensive working plan, developed in collaboration with individuals with disabilities and with District

agencies serving individuals with disabilities, which shall include annual legislative, regulatory, and budgetary recommendations for the District to serve qualified individuals with disabilities in accordance with *Olmstead v. L.C.*, 527 U.S. 581, and in the most integrated setting as provided in 28 C.F.R. Part 35, App. A.

(10) “Rehabilitation Act” means the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 355; 29 U.S.C. § 701 et seq.).

(Mar. 8, 2007, D.C. Law 16-239, § 2, 54 DCR 404.)

Legislative history of Law 16-239. — Law 16-239, the “Disability Rights Protection Act of 2006”, was introduced in Council and assigned Bill No. 16-866, which was referred to Committee on Government Operations. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28 2006, it was assigned Act No. 16-595 and trans-

mitted to both Houses of Congress for its review. D.C. Law 16-239 became effective on March 8, 2007.

Mayor’s Orders. — Re-Establishment of the District of Columbia Commission on Persons with Disabilities, see Mayor’s Order 2009-165, September 25, 2009 (56 DCR 8093).

Editor’s notes. — Section 7083 of D.C. Law 17-219 repealed Section 10 of D.C. Law 16-239.

§ 2-1431.02. District of Columbia ADA Compliance Program.

(a) All agencies shall:

(1) Appoint an agency ADA Coordinator in accordance with 28 C.F.R. Part 35;

(2) Complete an annual ADA self-evaluation to determine the status of ADA compliance;

(3) Prepare an annual ADA implementation plan stating action to be taken to provide qualified persons with disabilities in the District with full and complete access to services, activities, and facilities;

(4) Establish and publish uniform grievance procedures in accordance with 28 C.F.R. § 35.107 for prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA; and

(5) Submit the annual ADA self-evaluation and annual ADA implementation plan for approval to the Office of Disability Rights on an annual schedule established by the Office of Disability Rights.

(b) The Mayor shall:

(1) Establish an ADA Compliance Program that shall include compliance and monitoring procedures for the implementation of the ADA at all agencies; and

(2) Establish and implement an annual Olmstead Compliance Plan, as developed under § 2-1431.04(8).

(Mar. 8, 2007, D.C. Law 16-239, § 3, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

Mayor’s Orders. — Establishment—The District of Columbia Commission on Persons with Disabilities, see Mayor’s Order 2008-38, March 13, 2008 (55 DCR 5305).

Designation of the Office of Disability Rights as the EEO Counselor for Employees with Disabilities, see Mayor’s Order 2008-64, April 17, 2008 (55 DCR 5519).

Designation of the Office of Disability Rights to coordinate the Americans with Disabilities

Act Compliance Program in the District of Columbia and Assignment of Related Responsibilities to Other District Government Agen-

cies, see Mayor's Order 2008-69, April 25, 2008 (55 DCR 6916).

§ 2-1431.03. Establishment of the Office of Disability Rights.

(a) There is established an Office of Disability Rights.

(b) The purpose of the Office is to advance the civil rights of people with disabilities by coordinating the District's ADA Compliance Program and by ensuring and overseeing District-wide compliance with the ADA and related disability-rights laws.

(c)(1) The Office shall be headed by a Director who shall be appointed by the Mayor with § 1-523.01(a).

(2) The Director shall serve as the Chief Administrative Officer, and may organize personnel, re-delegate authority, develop programs, and take any other action consistent with appropriations and other applicable law. Annual compensation for the Director shall be fixed in accordance with subchapter X-A of Chapter 6 of Title 1 [§ 1-610.51 et seq.].

(3) If the position of Director is vacant or about to be vacant, the Mayor may receive input on the selection of the Director from the Mayor's Committee on Persons with Disabilities and shall endeavor to hire a qualified individual with a disability.

(d) In addition to a Director, the Office shall at a minimum have the following full-time staff:

(1) In fiscal year 2007, 3 full-time staff to include a Deputy Director, a communications specialist, and an administrative assistant;

(2) In fiscal year 2008 and thereafter, the Director may, pursuant to subsection (c) of this section and subject to appropriations, increase the number of staff members and organize the Office as the Director may determine is necessary and appropriate to carry out the Office's mission.

(e) The Director shall endeavor to hire qualified individuals with disabilities.

(Mar. 8, 2007, D.C. Law 16-239, § 4, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

§ 2-1431.04. Powers and duties of the Office.

The Office shall:

(1) Coordinate and oversee the District's ADA Compliance Program;

(2) Provide ongoing training and technical assistance to agency ADA coordinators;

(3) Provide ongoing training, technical assistance and community resource referrals to agencies to ensure that agency employment practices, services and supports, facilities, telecommunications, and general policies and practices are fully accessible to people with disabilities and meet the require-

ments of the ADA, section 504 of the Rehabilitation Act, and the disability rights provisions of the Human Rights Act;

(4) Evaluate the District's compliance with the ADA, section 504 of the Rehabilitation Act], and the disability rights provisions of the Human Rights Act; report any deficiencies to the Office of Human Rights; and make recommendations for addressing deficiencies to the Mayor;

(5) Investigate actions or inactions of agencies in alleged violation of the ADA, section 504 of the Rehabilitation Act, and make referrals to the Office of Human Rights, as appropriate, of any actions or inactions that may violate the Human Rights Act;

(6) Provide information and referral, legal information, and assistance with filing complaints with the Office of Human Rights to individuals who have questions about disability rights or are experiencing obstacles to receiving services;

(7) Provide a full-time Executive Director and other full staff support to the Mayor's Committee on Persons with Disabilities;

(8)(A) No later than one year after the establishment of the Office, and by January 1 of each year thereafter, submit to the Mayor and Council an Olmstead Compliance Plan.

(B) In developing the Olmstead Compliance Plan, the Office shall work actively with the Mayor's Committee on Persons with Disabilities and shall endeavor to ensure that all work groups related to the development of the Olmstead Compliance Plan are at a minimum comprised 25% by individuals with disabilities and 25% by advocates or family members;

(9)(A) No later than one year after the establishment of the Office, submit to the Mayor and Council an assessment of the existing resources, including staffing, available to each agency ADA Coordinator.

(B) The assessment shall include recommendations for the percentage of time that the ADA Coordinator at each agency should devote to duties under this unit, and recommendations for any specific agencies which should designate a full-time ADA Coordinator. The Office shall base its recommendations on the following criteria:

(i) The frequency with which the agency works with members of the public who are individuals with disabilities or District employees who are individuals with disabilities;

(ii) The frequency with which the agency interacts with the general public;

(iii) The volume of reasonable accommodation requests processed by the agency;

(iv) The volume of discrimination complaints processed by the agency; and

(v) Any other criteria that the Office believes are relevant and establishes prior to its assessment of agencies, in consultation with the Mayor's Committee on Persons with Disabilities; and

(10) By January 1 of each year, submit to the Mayor and Council an annual status report on all activities required under this section.

(Mar. 8, 2007, D.C. Law 16-239, § 5, 54 DCR 404.)

Legislative history of Law 16-239. — For Rehabilitation Act, referred to in pars. (3), (4), and (5), is classified as 29 U.S.C. § 794.

References in text. — Section 504 of the

§ 2-1431.05. Plans and reports to be made available to the public.

(a) Agencies shall make all ADA plans and reports required under this unit available on their websites and shall provide copies to the public upon request.

(b) The Office shall make all plans and reports required under this unit available on its website and shall provide copies to the public upon request.

(Mar. 8, 2007, D.C. Law 16-239, § 6, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

§ 2-1431.06. Transfer of functions from the Mayor's Committee on Persons with Disabilities.

(a) As of October 1, 2008, the Mayor shall transfer to the Office all functions and records of the Mayor's Committee on Persons with Disabilities.

(b) The Mayor's Committee on Persons with Disabilities shall serve in an advisory capacity to the Office and shall be actively involved in the development of the ADA Compliance Program and the Olmstead Compliance Program.

(Mar. 8, 2007, D.C. Law 16-239, § 7, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

§ 2-1431.07. Transfer of functions from Office of Risk Management.

All functions, personnel, records, and property assigned to the Office of Risk Management under section IV(B)(1) of Mayor's Order 2006-58, issued May 23, 2006 (53 DCR 5314), shall be transferred to the Office of Disability Rights. This section shall apply 30 days after the date of the appointment of the Director of the Office.

(Mar. 8, 2007, D.C. Law 16-239, § 8, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

§ 2-1431.08. Rulemaking and interagency agreements.

(a) The Mayor shall promulgate rules as necessary to implement the provisions of this unit. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, and days of Council recess. If the Council does not approve or disapprove the proposed rules by

resolution within this 30-day period, the proposed rules shall be deemed approved.

(b) No later than 3 months after March 8, 2007, the Mayor shall issue rules which shall assign specified functions to agencies under Titles I, II, III, and IV of the ADA and shall establish a process for regular interagency meetings of the agencies with assigned specified functions. The rules shall, at a minimum, address the functions specified in section IV-B of Mayor's Order 2006-58, issued on May 23, 2006.

(c) All agencies assigned specific functions under the rules described in subsection (b) of this section shall enter into a Memorandum of Agreement ("MOA") or a Memorandum of Understanding ("MOU") with the Office of Disability Rights. Each MOA or MOU shall describe operational and communication procedures for interaction with the Office.

(Mar. 8, 2007, D.C. Law 16-239, § 9, 54 DCR 404.)

Legislative history of Law 16-239. — For Law 16-239, see notes following § 2-1431.01.

References in text. — Title I, II, III, and IV of ADA is classified as 42 U.S.C. § 12101 et seq.

CHAPTER 15. YOUTH AFFAIRS.

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Subchapter I. Office of Youth Advocacy.

§ 2-1501. Definitions.

As used in this subchapter, the term:

(1) "Youth" means those residents of the District of Columbia between the ages of 13 and 17, inclusive.

(2) "Children" means those residents of the District of Columbia ages 12 and under.

(3) "Neighborhood planning council" means the structure designated for adult and youth participation in the development, implementation, and evaluation of programs for children and youth, pursuant to Commissioner's Order No. 68-219, March 25, 1968, subject to modifications made by the Mayor pursuant to § 2-1503.01.

(4) "Councilmember" means any person 13 years and over who lives within the geographic area of a neighborhood planning council who has registered his/her name, address, and telephone number with that particular council.

(5) "Council of chairpersons" means the body of assembled chairpersons of each of the neighborhood planning councils.

(6) "Office," "Director," and other such terms mean the Office of Youth Advocacy, established in § 2-1504, and further specified in other parts of this subchapter.

(7) "Division," "Director," and other such terms mean the Division of Community-Based Programs for Children and Youth of the Department of Recreation, established in § 2-1503, and further specified in other parts of this subchapter.

(Mar. 29, 1977, D.C. Law 1-93, § 2, 23 DCR 9532b; Mar. 16, 1993, D.C. Law 9-194, § 2(a), 39 DCR 9010.)

Prior Codifications. — 1981 Ed., § 1-2601. 1973 Ed., § 6-2001.

Temporary Amendment of Section. —

For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Youth Services Act of 1976 Temporary Amendment Act of

1992 (D.C. Law 9-151, September 15, 1992, law notification 39 DCR 7281).

For temporary (225 day) amendment of section, see § 2(b) of the Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Temporary Amendment Act of 1999 (D.C. Law 13-67, Apr. 5, 2000, law notification 47 DCR 2624).

Emergency legislation. — For temporary (90-day) establishment of a Children and Youth Initiative to provide out-of-school programs, see §§ 2402 to 2404 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90-day) amendment of § 2404 of D.C. Law 13-38, see § 2(b) of the Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Emergency Amendment Act of 1999 (D.C. Act 13-152, December 1, 1999, 46 DCR 10395).

For temporary (90 day) amendment of section, see § 3 of Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-17, March 16, 2001, 48 DCR 2687).

For temporary (90 day) amendment of section, see § 2 of Service Improvement and Fiscal Year 2000 Budget Support Emergency Amendment Act of 2002 (D.C. Act 14-347, April 24, 2002, 49 DCR 4410).

Legislative history of Law 1-93. — Law 1-93 was introduced in Council and assigned Bill No. 1-307, which was referred to the Committee on Education, Recreation and Youth Affairs. The Bill was adopted on first and second readings on July 27, 1976 and September 15, 1976, respectively. Enacted without signature by the Mayor on October 20, 1976, it was assigned Act No. 1-162 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-194. — For legislative history of D.C. Law 9-194, see Historical and Statutory Notes following § 2-1503.01.

References in text. — Pursuant to Mayor's Order 2000-20, the agency formerly known as the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

Delegation of Authority. — Delegation of authority under D.C. Act 9-231, the District of Columbia Youth Services Act of 1976 Emergency Amendment Act of 1992, see Mayor's Order 92-102, September 4, 1992.

Editor's notes. — Section 2402 of D.C. Law 13-38 provided: "There is established a Children and Youth Initiative ('Initiative') to provide out-of-school programs for District of Columbia children and youth."

§ 2-1502. Purpose.

It is the purpose of this subchapter to:

- (1) Promote and support programs for children and youth in existing agencies of the District of Columbia government;
- (2) Reorganize the current pattern of programs and services for children and youth offered through the Office of Youth Advocacy;
- (3) Ensure that an effective mechanism exists to facilitate youth employment;
- (4) Provide a review and evaluation mechanism for existing services and programs for children and youth; and
- (5) Promote and support programs for Hispanic youth in D.C. agencies.

(Mar. 29, 1977, D.C. Law 1-93, § 3, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2602. 1973 Ed., § 6-2002.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

Editor's notes. — Grants for youth oriented

programs: D.C. Law 10-195 authorized the Youth Initiatives Office to make grants to community based organizations for youth oriented programs and for other purposes in order to address the crisis affecting District of Columbia youth.

§ 2-1503. Office of Youth Opportunity Services abolished and functions transferred; Division of Community-Based Programs for Children and Youth established.

(a) The Commissioner's Order No. 70-93 (approved March 17, 1970) establishing the Office of Youth Opportunity Services, is hereby repealed and that Office is hereby abolished. All of the powers, duties, and functions assigned to that Office under any provision of law are hereby transferred to the departments and agencies as indicated in the following provisions of this subchapter.

(b) There are hereby transferred to the Department of Recreation (Organization Order No. 10; Commissioner's Order No. 68-440, June 27, 1968, amended August 6, 1968, October 3, 1968, and March 14, 1970) the following functions, previously performed by the Office of Youth Opportunity Services:

(1) Assist and facilitate programs for children and youth carried on by neighborhood planning councils (Commissioner's Order No. 68-219, March 25, 1968) and other community organizations including, but not limited to, any and all organizations providing services to Hispanic youth pursuant to programs, under programs, previously funded by the Office of Youth Opportunity Services, providing maximal community participation in decision-making;

(2) As directed by the Mayor, conduct special and citywide youth programs; and

(3) Operate juvenile delinquency prevention programs.

(c)(1) There is hereby established in the Department of Recreation, a Division of Community-Based Programs for Children and Youth, which shall provide administrative and operational support for programs for children and youth conducted by the neighborhood planning councils and other community organizations.

(2) The Division of Community-Based Programs for Children and Youth will have the responsibility for the administration of community recreational, educational, cultural, and economic development programs of the neighborhood planning councils. All appropriated and grant funds for the operation of such programs will be administered separately within the Division, under the auspices of the Department of Recreation. All youth development block grant funds received by the District government from the federal Community Services Administration, as designated for such purposes, shall be obligated in programs for children and youth conducted by the neighborhood planning councils.

(3) Local program planning, project selection, and designation of project grants will be performed by the neighborhood planning councils. There will be an equitable allocation of funds, based on children and youth population, for each neighborhood planning council.

(4) The authority and fiscal responsibility to manage community elections for the neighborhood planning councils will be assigned to the Division of Community-Based Programs for Children and Youth, under the direction of the Department of Recreation.

(5) The Director of the Division of Community-Based Programs for

Children and Youth shall be appointed by the Director of the Department of Recreation.

(6) The Division of Community-Based Programs for Children and Youth shall, in consultation with the council of chairpersons, prepare an operational manual for the development and implementation of programs.

(7) The Director of the Division of Community-Based Programs for Children and Youth will be responsible for coordinating all community-based programs for children and youth. Decisions on community program priorities will be made by each neighborhood planning council according to criteria specified in the operational manual developed by the Division. The Director of the Division of Community-Based Programs for Children and Youth will serve as liaison to the neighborhood planning councils and the council of chairpersons, and be accountable to both the neighborhood planning councils and the Department of Recreation for the effective administration of community-based programs for children and youth. The Director of the Division will insure that adequate technical assistance is available to the council of chairpersons and each neighborhood planning council.

(8) The neighborhood planning councils shall continue to abide by their uniform constitution and bylaws, consistent with this subchapter and other District laws. Changes and amendments to the uniform constitution and by-laws shall be made only by the consent of the council of chairpersons.

(d) There are hereby transferred to the Department of Manpower (Organization Order No. 46, Commissioner's Order No. 74-144, June 29, 1974) the functions of the Office of Youth Opportunity Services relating to the coordination of programs designed to provide jobs for youth.

(e) There are hereby transferred to the School of Continuing Education, Federal City College, University of the District of Columbia (D.C. Law 1-36) the functions of the Office of Youth Opportunity Services with respect to the administration and supervision of the District of Columbia Street Academy.

(f) There are hereby assigned to the Board of Education of the District of Columbia the functions of the Office of Youth Opportunity Services with respect to the summer lunch program for children and youth.

(Mar. 29, 1977, D.C. Law 1-93, § 4, 23 DCR 9532b.)

Section references. — This section is referred to in § 2-1501.

Prior Codifications. — 1981 Ed., § 1-2603. 1973 Ed., § 6-2003.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

D.C. Law 1-36, referred to in subsection (e), is the District of Columbia Public Postsecondary Education Reorganization Act Amendments.

§ 2-1503.01. Neighborhood Planning Councils — Established; elections; tenure.

(a) There shall be 2 neighborhood planning councils in each election ward established pursuant to § 1-1011.01. The Mayor, by rulemaking, shall draw

boundaries for neighborhood planning councils, after each decennial census, so that they are approximately equal in population.

(b)(1) Regular elections for the neighborhood planning councils shall be held in even numbered years on a date set by the Mayor by rulemaking.

(2) Any neighborhood planning council member holding office immediately prior to June 19, 1992, may continue to hold office until a successor is elected and qualifies for office pursuant to this subchapter.

(Mar. 29, 1977, D.C. Law 1-93, § 4a, as added Mar. 16, 1993, D.C. Law 9-194, § 2(b), 39 DCR 9010.)

Section references. — This section is referred to in § 2-1501.

Prior Codifications. — 1981 Ed., § 1-2603.1.

Temporary Addition of Section. — For temporary (225 day) addition, see § 2(b) of District of Columbia Youth Services Act of 1976 Temporary Amendment Act of 1992 (D.C. Law 9-151, September 15, 1992, law notification 39 DCR 7281).

Legislative history of Law 9-194. — Law

9-194, the "District of Columbia Youth Services Act of 1976 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-450, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on October 6, 1992, and November 4, 1992, respectively. Signed by the Mayor on November 23, 1992, it was assigned Act No. 9-315 and transmitted to both Houses of Congress for its review. D.C. Law 9-194 became effective on March 16, 1993.

§ 2-1504. Office of Youth Advocacy established; functions; appointment of Director; personnel.

(a) There is hereby established in the executive branch an Office of Youth Advocacy which shall perform a planning, review and evaluation function for all programs operated by the District of Columbia government impacting on children and youth, including employment, health, counseling recreation, and training.

(b) The Director of the Office of Youth Advocacy shall be appointed by the Mayor. The Director may hold no other public office.

(c) The following positions and their associated funding are hereby authorized to be transferred from the Office of Youth Opportunity Services to the Office of Youth Advocacy:

One special assistant to the Mayor (Subject to the prior approval of the Civil Service Commission pursuant to 5 U.S.C. § 5108.)	GS-16
One program analyst officer	GS-13
One education specialist	GS-12
One research assistant	GS-11
One program director	GS-11
Two field technical assistants	GS-9
One computer program analyst	GS-11
Two program analysts	GS-9
One secretary	GS-7

(d) Consistent with this subchapter and other District laws, the Director may hire employees, assign work, and delegate the duties, exercise the powers, and carry out the functions of the Office.

(e) All positions and personnel so transferred shall continue to be governed by personnel legislation enacted by Congress, and rules and regulations promulgated pursuant thereto, until such time as the District government personnel system is established in accordance with § 1-204.22(3). Such positions and personnel may be reclassified, realigned, or found in excess and separated from the service in accordance with this subchapter or an administrative order of the Director.

(Mar. 29, 1977, D.C. Law 1-93, § 5, 23 DCR 9532b; Apr. 28, 1978, D.C. Law 2-75, § 2, 24 DCR 7498.)

Section references. — This section is referred to in §§ 2-1501 and 2-1505.

Prior Codifications. — 1981 Ed., § 1-2604. 1973 Ed., § 6-2004.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

Legislative history of Law 2-75. — Law 2-75 was introduced in Council and assigned

Bill No. 2-119, which was referred to the Committee on Education, Recreation and Youth Affairs. The Bill was adopted on first and second readings on January 24, 1978 and February 7, 1978, respectively. Signed by the Mayor on February 24, 1978, it was assigned Act No. 2-153 and transmitted to both Houses of Congress for its review.

§ 2-1505. Duties of Director.

The Director of the Office shall:

(1) Systematically review and evaluate the full array of programs operated by the District of Columbia impacting on children and youth, as specified in § 2-1504(a);

(2) Plan and develop demonstration youth programs for transfer to other operating agencies upon their validation after no more than 3 years of operation;

(3) Present the interest of children and youth before other administrative and regulatory agencies and legislative bodies of the District of Columbia government;

(4) Assist, advise, and cooperate with local, federal, and private agencies to promote the interest of children and youth in the District of Columbia;

(5) Develop criteria for the validation of programs for children and youth which shall be widely disseminated and utilized in the review and evaluation of programs;

(6) Issue an annual report on the current status of programs for children and youth on a citywide basis, both governmental and private; and

(7) Perform such other functions and duties consistent with the purpose of this subchapter which may be deemed necessary and appropriate to promote the welfare of children and youth.

(Mar. 29, 1977, D.C. Law 1-93, § 6, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2605. 1973 Ed., § 6-2005.

Legislative history of Law 1-93. — For

legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

§ 2-1506. Transfer of positions and funds.

(a) The following positions and their associated funding are hereby transferred from the Office of Youth Opportunity Services to the Department of Manpower:

One deputy director	GS-15
One manpower specialist	GS-14
One computer systems analyst	GS-13
One program analyst officer	GS-12
One research assistant	GS-9
One research assistant	GS-7
Three clerks	GS-4

(b) The following positions and their associated funding, initially transferred in the Budget Act of 1977 to the Department of Manpower, are hereby transferred from the Office of Youth Opportunity Services to the Department of Recreation for the support of neighborhood planning council programs:

One recreation specialist	GS-14
One program analyst officer	GS-12
One social science analyst	GS-11
Two field technical assistants	GS-9
One secretary	GS-6
One clerk	GS-4

(c) The funds available to the Office of Youth Advocacy, Department of Manpower, Department of Recreation, Federal City College, and District of Columbia Public Schools to carry out the purposes of this subchapter will be as delineated in the Budget Act of 1977, Act 1-94 (March 9, 1976) except as altered in subsections (a) and (b) of this section.

(d) All positions and personnel so transferred shall continue to be governed by personnel legislation enacted by Congress, and rules and regulations promulgated pursuant thereto, until such time as the District of Columbia government personnel system is established in accordance with § 1-204.22(3). Such positions and personnel may be reclassified or found in excess and separated from the service in accordance with this subchapter or an administrative order of the directors or president of the aforementioned agencies and departments.

(Mar. 29, 1977, D.C. Law 1-93, § 7, 23 DCR 9532b; Apr. 28, 1978, D.C. Law 2-75, § 2, 24 DCR 7498.)

Prior Codifications. — 1981 Ed., § 1-2606. 1973 Ed., § 6-2006.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

Legislative history of Law 2-75. — For legislative history of D.C. Law 2-75, see Historical and Statutory Notes following § 2-1504.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation" renamed the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

Editor's notes. — "Federal City College", referred to in (c), has been merged into the University of the District of Columbia.

§ 2-1507. Accounting and voucher systems.

The Mayor shall instruct the Office of Budget and Resource Development to coordinate with the Department of Recreation the establishment of a book-keeping and accounting system to allow for timely allocation of monies from the District of Columbia government to neighborhood planning council programs, and shall establish a regular voucher system to facilitate the swift transference of funds from the District of Columbia government to the neighborhood planning councils.

(Mar. 29, 1977, D.C. Law 1-93, § 8, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2607. 1973 Ed., § 6-2007.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation" renamed the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

§ 2-1508. Conflict of interest procedures.

The neighborhood planning councils shall, with the assistance of the Department of Recreation, establish procedures in their bylaws and constitution to handle conflicts of interest in the award of subgrants to programs, when any councilmember has either a structural or fiduciary relationship with a grant applicant or grantee.

(Mar. 29, 1977, D.C. Law 1-93, § 9, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2608. 1973 Ed., § 6-2008.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation" renamed the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

§ 2-1509. Rules of operation for neighborhood planning councils.

The neighborhood planning councils shall establish, under the auspices of the Director of the Department of Recreation, uniform rules governing their operation and internal structure. These rules shall include a statement of neighborhood planning council responsibilities, voting procedures, the establishment of standing committees, the manner of selecting chairpersons and other officers, procedures for prompt review and action on committee recommendations, and procedures for receipt and action upon community recommendations at both the local neighborhood planning council and citywide council of chairpersons levels. Said rules shall be filed with the Director of the Department of Recreation and published in the D.C. Register.

(Mar. 29, 1977, D.C. Law 1-93, § 10, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2609. 1973 Ed., § 6-2009.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation" renamed the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

§ 2-1510. Budget request.

The Department of Recreation shall develop an annual fiscal year budget request to administer and support programs of the neighborhood planning councils; such budget requests shall be submitted to the neighborhood planning councils each year for their review and comment. The budget shall be submitted by the Mayor to the Council, accompanied by such comments, on such date which may be required to conform with the District of Columbia budget schedule.

(Mar. 29, 1977, D.C. Law 1-93, § 11, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2610. 1973 Ed., § 6-2010.

Legislative history of Law 1-93. — For legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

References in text. — Pursuant to Mayor's

Order 2000-20, the agency formerly known as the "Department of Recreation" renamed the "Department of Recreation and Parks" shall be known as the "Department of Parks and Recreation."

§ 2-1511. Severability.

If any provision of this subchapter is held invalid, the remainder of this subchapter shall not be affected.

(Mar. 29, 1977, D.C. Law 1-93, § 12, 23 DCR 9532b.)

Prior Codifications. — 1981 Ed., § 1-2611. 1973 Ed., § 6-2011.

Legislative history of Law 1-93. — For

legislative history of D.C. Law 1-93, see Historical and Statutory Notes following § 2-1501.

Subchapter I-A. Department of Youth Rehabilitation Services.

§ 2-1515.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Aftercare services" means programs and services designed to provide care, supervision, and control over children released from facilities.

(1A) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(1B) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of all behavioral health issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(1C) "Behavioral health screening" means a brief process designed to

identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a comprehensive examination.

(2) “Committed” means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(3) “Contracted provider” means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department’s care and custody.

(4) “Conviction” means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of nolo contendere, or a plea of guilty to a criminal charge enumerated in § 2-1515.05(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5)(A) “Custody” means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

(i) Physical custody and the determination of where and with whom the minor shall live;

(ii) The right and duty to protect, train, and discipline the minor; and

(iii) The responsibility to provide the minor with food, shelter, education, and ordinary medical care.

(B) A Family Court order of “legal custody” is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) “Department” means the Department of Youth Rehabilitation Services.

(7) “Detained” means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with § 16-2312.

(8) “Facilities” means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) “Family Court” means the Family Court of the Superior Court of the District of Columbia.

(10) “Person in Need of Supervision” or “PINS” means a “child in need of supervision” as that term is defined by § 16-2301(8).

(11) “Rehabilitative services” means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic competency skills necessary to reintegrate into their home and community-based settings.

(12) “Youth” means a “child” as that term is defined by § 16-2301(3). The terms “juvenile,” “child,” and “resident” appearing in this subchapter are used interchangeably.

(13) “Youth residential facility” means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility’s adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to § 16-2312 or a dispositional hearing held pursuant to § 16-2317.

(Apr. 12, 2005, D.C. Law 15-335, § 101, 52 DCR 2025; June 7, 2012, D.C. Law 19-141, § 504(a), 59 DCR 3083.)

Effect of amendments. — D.C. Law 19-141 added pars. (1A), (1B), and (1C).

Emergency legislation. — For temporary (90 day) addition, see § 101 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 101 of Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — Law 15-335, the “Department of Youth Rehabilitation Services Establishment Act of 2004”, was introduced in Council and assigned Bill No. 15-749 which was referred to the Committee on Human Services. The Bill was adopted on first

and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 21, 2005, it was assigned Act No. 15-749 and transmitted to both Houses of Congress for its review. D.C. Law 15-335 became effective on April 12, 2005.

Legislative history of Law 19-141. — Law 19-141, the “South Capitol Street Memorial Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

§ 2-1515.02. Establishment and purposes of the Department of Youth Rehabilitation Services.

(a) Pursuant to § 1-204.04(b), the Department of Youth Rehabilitation Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the government of the District of Columbia. The Department shall lead the reform of the District’s juvenile justice system by coordinating the collaborative efforts of government agencies, contracted providers, labor, and community leaders to:

(1) Improve the security, supervision, and rehabilitation services provided to committed and detained juvenile offenders and Persons in Need of Supervision (“PINS”);

(2) Develop and maintain a holistic, family-oriented approach to the provision of youth services that emphasizes youth and parental responsibility so as to reduce juvenile crime, delinquency, and recidivism; and

(3) Develop and maintain state-of-the-art service programs, delivery systems, and facilities that will transform the District’s juvenile justice system into a national model.

(b) The Department shall be headed by a Director, who shall report to the Mayor. The Director shall be appointed by the Mayor with the advice and consent of the Council, pursuant to § 1-523.01(a).

(c) The Director shall have a minimum education of a Masters Degree in

Criminal Justice, Social Work, or some related field, or shall possess equivalent work-related experience in the management of juvenile justice programs.

(d) The Director shall have authority over the Department, its functions, and personnel, including the power to re-delegate to employees authority as, in the judgment of the Director, is warranted in the interests of efficiency and sound administration.

(e) The Director shall have authority to organize and reorganize the personnel and property transferred herein within any organizational unit of the Department, including creating offices within the Department, as necessary, and exercising any other powers necessary and appropriate to implement the provisions of this subchapter.

(f) The Director shall have authority to implement an aggressive, District-wide program of reform within the juvenile justice system that leads to a system that can serve as a nationwide model.

(Apr. 12, 2005, D.C. Law 15-335, § 102, 52 DCR 2025.)

Emergency legislation. — For temporary (90 day) addition, see § 102 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 102 of Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

Short title. — Short title: Section 5061 of D.C. Law 19-21 provided that subtitle G of title V of the act may be cited as “Increase Local Capacity to Serve DYRS Committed Youth Act of 2011”.

Editor’s notes. — Sections 5062 to 5064 of D.C. Law 19-21 provided:

“Sec. 5062. Report on Department of Youth Rehabilitation Services plans to reduce residential placements outside of the District.

“No later than December 16, 2011, the Department of Youth Rehabilitation Services (‘DYRS’) shall transmit to the Council a report summarizing the results and action items from the Request for Information concerning establishing in-patient drug treatment programs within 50 miles of the District.”

“Sec. 5063. Report on Department of Youth Rehabilitation Services youths in psychiatric residential treatment facilities and residential treatment centers.

“(a) DYRS shall conduct a study of DYRS youths in psychiatric residential treatment facilities (‘PRTFs’) and residential treatment centers (‘RTCs’). The study shall evaluate the following:

“(1) The population based on demographic characteristics of youth;

“(2) The offense history of the youths;

“(3) The risk profile of the youths;

“(4) The behavioral health issues;

“(5) The substance abuse issues;

“(6) The past community-based service provision;

“(7) The reason for current placement; and

“(8) Other factors that DYRS determines to be significant.

“(b) No later than December 16, 2011, DYRS shall transmit to the Council a report summarizing the findings of the study, which shall include action items.

“(c) DYRS shall provide to the Council a quarterly census report on DYRS youth placed in PRTFs and RTCs. The report shall include the following:

“(1) The name of the centers;

“(2) The location of the centers;

“(3) The number of miles the centers are located outside of the District; and

“(4) The daily rate that the centers are charging the District.”

“Sec. 5064. Quarterly report on status of Medicaid eligibility.

“Beginning February 1, 2012, DYRS shall issue quarterly reports on the status of the Money Follows the Person program. The report shall include the following:

“(1) The number of applications submitted for Medicaid;

“(2) The number of applications approved for Medicaid; and

“(3) The amount of money obtained from Medicaid.”

§ 2-1515.03. Organization.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this subchapter. There is hereby established in the Department:

(1) The Office of the Director, which shall be responsible for all administrative activities, such as human resources, technology and information services, facilities management and transportation, contracting and procurement, and budget and financial services, with subordinate staff offices responsible for overall management responsibility of the office;

(2) The Division of Secure Programs, whose Deputy Director shall be responsible for operations at the Oak Hill Youth Center, the Youth Services Center, and any other Department secure facility;

(3) The Division of Court and Community Programs, whose Deputy Director shall be responsible for aftercare services for committed youth and prevention programs;

(4) The Division of Performance Management, whose Deputy Director shall be responsible for licensure, regulation, technical assistance, training, quality assurance, quality improvement, risk management, program evaluation, data collection, contract monitoring, policy formulation, legislative affairs, and monitoring and reporting on compliance with standards, policies, court orders, laws, rules, and regulations;

(5) The Office of Internal Integrity, which shall be responsible for the swift and competent internal investigations into allegations and indications of unprofessional and unlawful conduct by employees or contractors of the Department; and

(6) The Office of the General Counsel, which shall be responsible for reviewing legal matters pertaining to the Department and its programs, analyzing existing or proposed federal or local legislation and rules, managing the development of new legislation and rules, and coordinating legal services to the Department, and shall be headed by a General Counsel, who shall be in the Senior Executive Attorney Service of the Legal Service as an at-will employee under the direction and control of the Attorney General for the District of Columbia.

(b) Notwithstanding the proposed organization established in subsection (a) of this section, the Director of the Department shall have the authority, pursuant to § 2-1515.02(e), to organize and reorganize the organizational structure set forth in this section.

(Apr. 12, 2005, D.C. Law 15-335, § 103, 52 DCR 2025.)

Emergency legislation. — For temporary (90 day) addition, see § 103 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 103 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

§ 2-1515.04. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths, needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state-of-the-art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system;

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department; and

(14) Conducting a behavioral health screening and assessment as required in § 2-1215.04a.

(Apr. 12, 2005, D.C. Law 15-335, § 104, 52 DCR 2025; June 7, 2012, D.C. Law 19-141, § 504(b), 59 DCR 3083.)

Effect of amendments. — D.C. Law 19-141 deleted “and” from the end of par. (12), substituted “; and” for a period the end of par. (13), and added par. (14).

Emergency legislation. — For temporary (90 day) addition, see § 104 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 104 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1515.01.

§ 2-1515.04a. Behavioral health screening and assessment requirements.

(a) All youth in contact with the Department shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact; provided, that the Mayor may, through rulemaking, require that the behavioral health screening and assessment be conducted within fewer than 30 days of the initial contact.

(b) For the purposes of this section, the term “youth” means an individual under 18 years of age residing in the District and those individuals classified as committed youth in the custody of the Department who are 21 years of age or younger.

(Apr. 12, 2005, D.C. Law 15-335, § 104a, as added June 7, 2012, D.C. Law 19-141, § 504(c), 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1515.01.

Editor’s notes. — Section 601 of D.C. Law 19-141 provided: “Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

§ 2-1515.05. Special authorities of the Department.

(a) When the Department has physical custody of a youth pursuant to § 16-2320, it may:

(1) Authorize a medical evaluation, emergency medical, surgical, or dental treatment, a psychiatric evaluation, or emergency outpatient psychiatric treatment, when reasonable efforts to secure the consent of the youth's parents or legal guardian have been made, but a parent or legal guardian cannot be consulted; and

(2) Authorize non-emergency, routine outpatient medical, dental, and psychiatric treatment or an autopsy, when reasonable efforts to consult the parent or legal guardian have been made, but a parent or legal guardian cannot be consulted.

(b) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities and in doing so it may require:

(1) Random searches of all buildings and grounds for contraband;

(2) Random and probable cause searches of persons and personal property entering or on the grounds for contraband;

(3) Use of metal detectors and visual inspections, dog sniffers, or other means to inspect any bag, luggage, or container being carried into or on the grounds for contraband; and

(4) Seizure, confiscation, and retention of contraband as a result of a search or inspection conducted pursuant to paragraphs (1) through (3) of this subsection.

(c) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall require the testing of all prospective and existing Department staff and contractual employees or other applicable personnel for drug and alcohol use, in accordance with § 1-620.22.

(d) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall test youth for the presence of substances, which may pose risks to the health and safety of youth or others.

(e) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff assigned to any Department facility or any provider of services to youth in any Department-contracted facility, group home, or shelter to provide National Crime Information Center ("NCIC") criminal background checks in accordance with Chapter 15 of Title 4.

(f) The Department shall protect the safety, security, discipline, and order of Department facilities, residential facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff at any Department-owned or contract facility, or program that provides services to youth in the juvenile justice system, be subject to a child protection registry check in the District of Columbia and their current and prior states of residence.

(g) The Department may:

(1) Prohibit the hiring of or require the termination of persons seeking employment or employed by the Department, or providers of services either under contract, grant, or agreement, or persons who will provide or do provide direct services or who have access to youth in the juvenile justice system, who have been convicted by a court of competent jurisdiction of:

- (A) Child abuse or child neglect;
- (B) Rape or sexual assault;
- (C) Homicide or felony assault; or
- (D) Any other crime, as defined by rules issued by the Mayor;

(2) Require all Department facilities or programs under contract, grant, or agreement to obtain written approval of the Department prior to employing any person who has been convicted or has served a sentence in the past 10 years for any of the following offenses or their equivalents:

- (A) Fraud;
- (B) Burglary;
- (C) Drug-related crimes; or
- (D) Any other crime, as defined by rules issued by the Mayor; and

(3) Prohibit the assignment of persons employed by the Department, or providers of services, either under contract, grant, or agreement, that have access to youth into positions that may place them in contact with youth if that person is alleged to be a perpetrator of abuse or neglect in a currently pending child abuse or neglect investigation.

(h) The Department may take any other actions necessary to promote the safety and well-being of the youth in the Department's custody.

(i) A criminal or civil conviction for any of the charges listed within subsection (f)(1) of this section or identification as a perpetrator of abuse or neglect as determined by the investigation conducted pursuant to subsection (f) of this section in this or any jurisdiction shall constitute cause for termination.

(j) Except as expressly provided by this subchapter, all information obtained pursuant to this section shall be considered confidential and only released to appropriate officials, as determined by the Director of the Department.

(k) The Department may expend funds from its operating budget, as considered necessary, to create, manage, operate, and implement programs and policies that further its objective to provide rehabilitative care and services to detained and committed youth in its care and custody, including spending appropriated funds for on-site employee meals.

(Apr. 12, 2005, D.C. Law 15-335, § 105, 52 DCR 2025; Aug. 16, 2008, D.C. Law 17-219, § 5006, 55 DCR 7598.)

Effect of amendments. — D.C. Law 17-219 added subsec. (k).

Emergency legislation. — For temporary (90 day) addition, see § 105 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 105 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

Short title. — Short title: Section 5003 of title V of the act may be cited as the “On-site D.C. Law 17-219 provided that subtitle C of Meal Expenses Amendment Act of 2008”.

§ 2-1515.06. Confidentiality of youth records.

(a)(1) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall be released only in accordance with this subsection.

(2) Juvenile case records shall be released only to persons and entities permitted to inspect those records under § 16-2331 and in accordance with the procedures governing the release of records under that section.

(3) Juvenile social records shall be released only to persons and entities permitted to inspect those records under § 16-2332 and in accordance with the procedures governing the release of records under that section.

(4) Law enforcement records shall be released only to person and entities permitted to inspect those records under § 16-2333 and in accordance with the procedures governing the release of records under that section.

(5) All other Department records pertaining to youth in the custody of the Department shall be released only to persons and entities permitted to inspect juvenile social records under § 16-2332 and in accordance with the procedures governing the release of records under that section.

(b) Notwithstanding the confidentiality requirements of this section, the Mayor may establish rules for the disclosure of electronic Department data to other District government agencies statutorily charged with the care, treatment, and rehabilitation of youth in the District’s custody for purposes of coordination care, treatment, and rehabilitation services for youth and Department tracking and trending reports; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated in this subsection.

(c)(1) Notwithstanding the confidentiality requirements of this section, or any other provision of law, the Chairman of the Committee on Human Services, Members of the Committee on Human Services, and the Mayor, or their designees, shall be permitted to obtain the records pertaining to youth in the custody of the Department regardless of the source of the information contained in those records, when necessary for the discharge of their duties; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated pursuant to subsection (b) of this section.

(2) A Member of the Committee on Human Services shall notify the Chairman of the Committee on Human Services upon requesting a record pursuant to paragraph (1) of this subsection.

(d) Notwithstanding the confidentiality requirements of this section, or any other provision of law, the Metropolitan Police Department is authorized to obtain records pertaining to youth in the custody of the Department, other than juvenile case records as defined in § 16-2331 and juvenile social records

as defined in § 16-2332, for the purpose of investigating a crime allegedly involving a youth in the custody of the Department. The confidentiality of any information disclosed to the Metropolitan Police Department pursuant to this subsection shall be maintained pursuant to § 16-2333.

(Apr. 12, 2005, D.C. Law 15-335, § 106, 52 DCR 2025; Sept. 23, 2009, D.C. Law 18-50, § 2, 56 DCR 5487; Mar. 8, 2011, D.C. Law 18-284, § 2, 57 DCR 10477.)

Effect of amendments. — D.C. Law 18-50 added subsec. (c).

D.C. Law 18-284 rewrote subsec. (a); and added subsec. (d). Prior to amendment, subsec. (a) read as follows: “(a) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall only be released pursuant to § 16-2332.”

Temporary Amendment of Section. — Section 2 of D.C. Law 18-8 added subsec. (c) to read as follows:

“(c) Notwithstanding the confidentiality requirements of this section, the Chairman of the Committee on Human Services, or his designee, shall be permitted to obtain the records pertaining to youth in the custody of the Department when necessary for the discharge of the committee’s duties; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated pursuant to subsection (b) of this section.”

Section 4(b) of D.C. Law 18-8 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 106 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 106 of Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

For temporary (90 day) amendment of section, see § 2 of Juvenile Records Access Emergency Amendment Act of 2008 (D.C. Act 17-532, October 2, 2008, 55 DCR 11048).

For temporary (90 day) amendment of section, see § 2 of Records Access Emergency

Amendment Act of 2009 (D.C. Act 18-17, February 24, 2009, 56 DCR 1939).

For temporary (90 day) amendment of section, see § 2 of Records Access Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-76, May 25, 2009, 56 DCR 4153).

For temporary (90 day) amendment of section, see § 2 of Second Records Access Emergency Amendment Act of 2009 (D.C. Act 18-105, June 12, 2009, 56 DCR 4670).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

Legislative history of Law 18-50. — Law 18-50, the “Records Access Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-105, which was referred to the Committee on human Services. The Bill was adopted on first and second readings on June 2, 2009, and June 16, 2008, respectively. Enacted without signature by the Mayor on June 26, 2009, it was assigned Act No. 18-125 and transmitted to both Houses of Congress for its review. D.C. Law 18-50 became effective on September 23, 2009.

Legislative history of Law 18-284. — Law 18-284, the “Expanding Access to Juvenile Records Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-344, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on July 13, 2010, and October 19, 2010, respectively. Signed by the Mayor on November 3, 2010, it was assigned Act No. 18-594 and transmitted to both Houses of Congress for its review. D.C. Law 18-284 became effective on March 8, 2011.

Delegation of Authority. — Delegation of Authority under D.C. Law 18-50, the Records Access Amendment Act of 2009, see Mayor’s Order 2011-164, September 28, 2011 (58 DCR 8616).

Mayor’s Orders. — Mayor’s Designation under the Second Records Access Emergency Amendment Act of 2009, see Mayor’s Order 2009-164, September 25,

§ 2-1515.06a. Quarterly report on status of Medicaid eligibility.

Beginning February 1, 2012, the Department shall issue quarterly reports

on the status of the Money Follows the Person program. The report shall include the following:

- (1) The number of applications submitted for Medicaid;
- (2) The number of applications approved for Medicaid; and
- (3) The amount of money obtained from Medicaid.

§ 2-1515.07. Rules; authority to execute contracts and grants.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this subchapter.

(b) The Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this subchapter.

(Apr. 12, 2005, D.C. Law 15-335, § 107, 52 DCR 2025.)

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of Oak Hill Construction Streamlining Temporary Amendment Act of 2006 (D.C. Law 16-136, June 16, 2006, law notification 53 DCR 5764).

Emergency legislation. — For temporary (90 day) addition, see § 107 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 107 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

For temporary (90 day) amendment of section, see § 2 of Oak Hill Construction Streamlining Emergency Amendment Act of 2006 (D.C. Act 16-332, March 23, 2006, 53 DCR 2594).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

§ 2-1515.08. Transfers.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Youth Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions and operations of the Department of Human Services as set forth in, and utilized to carry out, section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(b) All of the authority and functions of the Department of Human Services as set forth in section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(c) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Youth Services Administration shall become the property of the Department.

(d) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties,

functions, and operations of the “Compact Administrator” of the Interstate Compact on the Placement of Children, as authorized by subchapter II of Chapter 14 of Title 4 [§ 4-1421 et seq.], shall become the property of the Department.

(e) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Youth Services Administration of the Department of Human Services in operating and regulating secure and residential facilities, juvenile justice services, programs, and supports, shall be transferred to the Department.

(f) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the Public Employee Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Youth Services Administration of the Department of Human Services, if those agreements have been approved by the Council, unless Council approval is not required by law, and, during a control year, as defined in § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(g) Every employee of the Youth Services Administration shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Department of Human Services, Youth Services Administration, or other department, at the time of the transfer. Subject to the District’s authority to convert them to the Management Supervisory Service and the Legal Service consistent with Chapter 6 of Title 1 [§ 1-601.01 et seq.], transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided for in § 44-906.

(h) The following rules and regulations pertaining to the licensing, oversight, and regulation of residential placement facilities for detained, delinquent youth and PINS shall remain in full force and effect unless and until repealed or superseded by action of the Department:

(1) Chapter 62 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities and Youth Group Homes); provided, that the Department shall perform all functions that Chapter 62 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, pursuant to the authority granted by Chapter 21 of Title 7 [§ 7-2101.01 et seq.], except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(2) Chapter 63 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Independent Living program for Adolescents and Young

Adults); provided, that the Department shall perform all functions that Chapter 63 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(3) Chapter 12 of Title 29 of the District of Columbia Municipal Regulations (Community Placement of Juvenile Offenders); provided, that the Department shall perform all functions that Chapter 12 vests in the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(Apr. 12, 2005, D.C. Law 15-335, § 108, 52 DCR 2025.)

Emergency legislation. — For temporary (90 day) addition, see § 108 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 108 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

§ 2-1515.09. Delegation and redelegation of authority.

The Department is the successor in interest to all committed and detained youth and Person in Need of Supervision related authority delegated to the Department of Human Services, and the Director of the Department is authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the Department of Human Services.

(Apr. 12, 2005, D.C. Law 15-335, § 109, 52 DCR 2025.)

Emergency legislation. — For temporary (90 day) addition, see § 109 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 109 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

§ 2-1515.10. Repealer.

All organizational orders and parts of orders in conflict with any of the provisions of this title are repealed, except that any regulations adopted or promulgated by virtue of the authority granted by these orders shall remain in force until properly revised, amended, or repealed.

(Apr. 12, 2005, D.C. Law 15-335, § 110, 52 DCR 2025.)

Emergency legislation. — For temporary (90 day) addition, see § 110 of Department of Youth Rehabilitation Services Establishment Emergency Act of 2004 (D.C. Act 15-657, December 29, 2004, 52 DCR 481).

For temporary (90 day) addition, see § 110 of

Department of Youth Rehabilitation Services Establishment Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-58, March 17, 2005, 52 DCR 3182).

Legislative history of Law 15-335. — For Law 15-335, see notes following § 2-1515.01.

Subchapter I-B. Youth Jobs Fund.

§ 2-1516.01. Youth Jobs Fund.

(a) There is established as a nonlapsing fund the Youth Jobs Fund (“Youth Fund”). All funds deposited into the Youth Fund, and the interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) The Youth Fund shall be used to pay for any purpose authorized under subsection (c) of this section, including administrative and vendor costs; provided, that not more than 10% of the funds deposited into the Youth Fund shall be used for Department of Employment Services administrative costs and not more than 10% of the funds deposited into the Youth Fund shall be used for vendor administrative costs.

(c) The Youth Fund shall be utilized for approved programs to provide in-school, out-of-school, and year-round employment programs for youth to work at least 10 hours per week.

(d) All District funds designated for youth employment shall be deposited into the Youth Fund, beginning on October 1, 2008.

(e) Beginning October 1, 2008, the Department of Employment Services shall submit to the Council a report that details the activities, budget, and expenditures, at the program level, of all programs, activities, and projects undertaken by the Youth Fund from all available funding sources. The report shall be submitted quarterly.

(Aug. 16, 2008, D.C. Law 17-219, § 1009, 55 DCR 7598.)

Legislative history of Law 17-219. — Law 17-219, the “Fiscal Year 2009 Budget Support Act of 2008”, was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned

Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

Short title. — Short title: Section 1008 of D.C. Law 17-219 provided that subtitle D of title I of the act may be cited as the “Youth Jobs Fund Establishment Act of 2008”.

Subchapter I-C. Youth Behavioral Health.

PART A.

YOUTH BEHAVIORAL HEALTH EPIDEMIOLOGY REPORT.

§ 2-1517.01. **Definitions.**

For the purposes of this part, the term:

(1) “Behavioral health” means a person’s overall social, emotional, and psychological well-being and development.

(2) “Youth” means individuals under 18 years of age residing in the District and those individuals classified as youth in the custody of the Department of Youth Rehabilitation Services and the Child and Family Services Agency who are 21 years of age or younger.

(June 7, 2012, D.C. Law 19-141, § 102, 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-141. — Law 19-141, the “South Capitol Street Memorial Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-211, which

was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Editor’s notes. — Section 601 of D.C. Law 19-141 provided: “Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

§ 2-1517.02. **Youth behavioral health epidemiological report.**

By March 30, 2013, and every 5 years thereafter, the Mayor shall submit a report to the Council on the behavioral health of District youth. At minimum, the report shall include:

(1) The type and prevalence of behavioral health conditions among youth broken down, if possible, by age, gender, race, ward residence, and sexual orientation;

(2) The level of utilization of behavioral health services by youth and the location of the services accessed; and

(3) An analysis of any barriers or obstacles preventing youth from accessing behavioral health services and recommendations for making the services more accessible.

(June 7, 2012, D.C. Law 19-141, § 103, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

PART B.

EARLY CHILDHOOD AND SCHOOL-BASED BEHAVIORAL HEALTH INFRASTRUCTURE.

§ 2-1517.31. Definitions.

For the purposes of this part, the term:

(1) “Behavioral health” means a person’s overall social, emotional, and psychological well-being and development.

(2) “Health education standards” means the specific learning requirements related to health that the Office of the State Superintendent of Education requires students to learn at each academic level, from pre-K through 12th grade.

(June 7, 2012, D.C. Law 19-141, § 202, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

§ 2-1517.32. Early childhood and school-based behavioral health comprehensive plan.

By March 30, 2013, the Mayor shall submit a comprehensive plan to the Council for the expansion of early childhood and school-based behavioral health programs and services by the 2016-2017 school year. At minimum, the plan shall:

(1) Establish a strategy to enhance behavioral health services in all public schools and public charter schools, including:

(A) The implementation of programs that:

(i) Include interventions for families of students with behavioral health needs;

(ii) Reduce aggressive and impulsive behavior; and

(iii) Promote social and emotional competency in students; and

(B) The expansion of school-based mental health services as follows:

(i) By the 2014-2015 school year, services are available to at least 50% of all public and public charter school students;

(ii) By the 2015-2016 school year, services are available to at least 75% of all public and public charter school students; and

(iii) By the 2016-2017 school year, services are available to all public and public charter school students;

(2) Include an analysis of whether current health education standards align with actual behavioral health needs of youth and any recommendations for proposed changes; and

(3) Provide recommendations for the expansion of behavioral health programs and services at child development facilities.

(June 7, 2012, D.C. Law 19-141, § 203, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

PART C.

CHILD WELFARE AND JUVENILE JUSTICE BEHAVIORAL HEALTH INFRASTRUCTURE.

§ 2-1517.51. Family resource guide.

(a) By October 1, 2013, the Mayor shall create a comprehensive resource guide for families who come into contact with the child welfare or juvenile justice systems. The guide shall include:

(1) A clear explanation of the rights and responsibilities of children and families;

(2) The role of District agencies, including the:

(A) Child and Family Services Agency;

(B) Department of Youth Rehabilitation Services;

(C) Department of Mental Health; and

(D) Department of Health Care Finance;

(3) The role of the courts;

(4) District government and non-governmental resources related to behavioral health, including contact information; and

(5) Websites for District government agencies and nongovernment resources related to behavioral health.

(b) The resource guide shall be:

(1) Made publicly available on the Internet;

(2) Updated as necessary, along with updates of the information described in subsection (a)(4) and (5) of this section; and

(3) Made available to other District agencies for distribution.

(June 7, 2012, D.C. Law 19-141, § 502, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

§ 2-1517.52. Department of Youth Rehabilitation Services behavioral health and compliance report.

The Mayor shall submit a report to the Council by March 30 of each year, which shall include:

(1) The number of youth:

(A) Who were committed to the Department of Youth Rehabilitation Services (“DYRS”) during the previous calendar year;

(B) Who received the required behavioral health screening;

(C) Whose behavioral health screening indentified a need for further behavioral health assessment;

(D) Who received a behavioral health assessment; and

(E) Who were referred to appropriate services;

(2) The reasons why a committed youth in DYRS did not receive the required behavioral health screening or behavioral health assessment, if any; and

(3) If necessary, recommendations on how DYRS can ensure that all of its committed youth are receiving the required behavioral health screenings and behavioral health assessments along with an estimate of the time it will take to meet that requirement.

(June 7, 2012, D.C. Law 19-141, § 503, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Subchapter II. Commission on Youth Affairs.

§ 2-1521. Definitions. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 2, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2621.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of the Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Temporary Amendment Act of 1999 (D.C. Law 13-67, Apr. 5, 2000, law notification 47 DCR 2624).

Emergency legislation. — For temporary (90-day) establishment of a Children and Youth Initiative to provide out-of-school programs, see §§ 2402 to 2404 of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90-day) amendment of § 2404 of D.C. Law 13-38, see § 2(b) of the Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Emergency

Amendment Act of 1999 (D.C. Act 13-152, December 1, 1999, 46 DCR 10395).

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Mayor’s Orders. — Establishment of the D.C. Intragovernmental Youth Investment Collaborative, see Mayor’s Order 99-60, March 16, 1999 (46 DCR 2932).

Editor’s notes. — Section 2402 of D.C. Law 13-38 provided: “There is established a Children and Youth Initiative (‘Initiative’) to provide out-of-school programs for District of Columbia children and youth.”

§ 2-1522. Commission on Youth Affairs; established. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 3, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2622. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1523. Powers and duties of Commission. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 4, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2623. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1524. Donation and grants. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 5, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2624. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1525. Interdepartmental advisory committee. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 6, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2625. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1526. Expenses of Commission members. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 7, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2626. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1527. Staffing and budget. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 8, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2627. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1528. Biannual reports. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 9, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2628. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

§ 2-1529. Rules. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-227, § 10, 36 DCR 607; Apr. 29, 1998, D.C. Law 12-86, § 401, 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 1-2629. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 2-1521.
Legislative history of Law 12-86. — For

Subchapter II-A. Gang and Crew Intervention Joint Working Group.

§ 2-1531.01. Establishment of a Gang and Crew Intervention Joint Working Group.

(a) By December 31, 2009, the Mayor shall create a Gang and Crew Intervention Joint Working Group (“Joint Working Group”) consisting of members of the Executive Committee of the Citywide Coordinating Council for Youth Violence Prevention (“CCCYVP”) and the core Focused Improvement Area (“FIA”) team, to include the Metropolitan Police Department (“MPD”), the Office of the City Administrator, and other agencies as identified by the Office of the Mayor.

(b) The Joint Working Group shall develop a coordinated response to high-profile youth violence through the following measures:

(1) Assess critical incident (“CI”) need and capacity by:

(A) Identifying and mapping all CIs involving youth over the past 6 months;

(B) Determining what portion of these incidents generated a CI response from CCCYVP partners; and

(C) Evaluating the current capacity of community-based organizations funded by the District (through both the CCCYVP and Children’s Youth Investment Trust) for violence intervention to respond to CIs;

(2) Endeavor to align existing resources to respond to critical incidents by:

(A) Developing a plan to align all violence intervention initiatives

funded in fiscal year 2010, regardless of funding source, into a coordinated CI strategy, to include proposals to modify contracts, as necessary;

(B) Assuring that CI resources are targeted to gang and crew “hot spots” and those neighborhoods experiencing the highest rates of youth violence; and

(C) Clarifying the geographic areas that each intervention service partner is or will be covering;

(3) Coordinate existing resources to respond to critical incidents by:

(A) Developing protocols for the immediate engagement of intervention partners by MPD when critical incidents occur;

(B) Assuring that Department of Parks and Recreation Roving Leaders in targeted neighborhoods are a part of the CI teams; and

(C) Engaging staff and School Resource Officers of middle and high schools in targeted neighborhoods in the CI process, as appropriate;

(4) Identify targeted youth by:

(A) Identifying existing and emerging conflicts between gangs and crews based on MPD’s Gang Intelligence Fusion Unit, MPD Division officers, and street intelligence from community partners and schools;

(B) In partnership with schools and community partners, identifying the youth most immediately at risk of involvement in violent behavior in targeted neighborhoods;

(C) Establishing and implementing a process to review unsolved violent offenses for possible gang and crew involvement; provided, that MPD shall review all unsolved suspected gang or crew homicides and attempted homicides involving minors or young adults within the last 5 years, to determine which may be connected to gang and crew violence, and deploy resources to close these cases quickly; and

(D) Partnering with Department of Youth Rehabilitation Services and Court Social Services prior to a youth’s release from detention to ensure youth and community safety are carefully planned for, including access to robust post-detention services; and

(5) Intervene with targeted youth by:

(A) Developing protocols for CIs that outline the necessary steps when responding to violent incidents involving youth, including the development of containment and de-escalation strategies that are incident-specific and designed to prevent acts of retaliation; provided, that:

(i) The protocols shall address:

(I) What information is shared;

(II) The roles and responsibilities of all parties in responding to violent incidents;

(III) Guidelines for street mediation, truces, and rumor control; and

(IV) Engagement of family members and others significant in the lives of both perpetrators and victims; and

(ii) Standards for individualized diversion plans for involved youth shall be developed that engage schools, government agencies, recreation centers, and other community-based resources;

(B) Establishing core components of an individual intervention and diversion plan, including direct outreach to all involved parties (both of the victim and alleged perpetrator), and engagement of families, schools, and community-based resources;

(C) Developing a proposal to provide flexible funds to resource these plans with the participation, as necessary, of agency personnel in review sessions and implementation; provided, that, when possible, any existing family team meeting processes at the Child and Family Services Agency and the Department of Youth Rehabilitation Services may be key elements of this process for youth involved with either of these agencies; and

(D) Identifying additional resources from agencies that should, where appropriate, be available to provide support for individual CI plans.

(c) By December 31, 2009, the Joint Working Group shall expand capacity of Critical Incident and Targeted Youth Outreach Teams through the following measures:

(1) Based on the CI capacity assessment, described in subsection (b) of this section, estimate what the current gap is between capacities and need;

(2) Assess the existing capacity of CCCYVP partners to provide targeted outreach to the highest-risk youth;

(3) Develop a plan to expand CI and targeted outreach that realistically reflects time necessary for recruitment and orientation of new staff; and

(4) Prepare a cost estimate for the short-term expansion plan, and a funding proposal for its implementation.

(Dec. 10, 2009, D.C. Law 18-88, § 104, 56 DCR 7413.)

Emergency legislation. — For temporary (90 day) addition, see § 104 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) addition, see § 104 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

Legislative history of Law 18-88. — Law

18-88, the “Omnibus Public Safety and Justice Amendment Act of 2009”, as introduced in Council and assigned Bill No. 18-151, which was referred to the Committee on Public Safety and the Judiciary. The bill as adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 26, 2009, it was assigned Act No. 18-189 and transmitted to both Houses of Congress for its review. D.C. Law 18-88 became effective on December 10, 2009.

Subchapter II-B. Commission on Juvenile Justice Reform.

§ 2-1533.01. Establishment of the Commission on Juvenile Justice Reform.

(a) There is established a Juvenile Justice Commission (“Commission”).

(b) The Commission shall be empaneled within 30 days of September 24, 2010.

(c)(1) The Commission shall be comprised of 12 members, who shall serve without public compensation and who shall be appointed as follows:

(A) Four members to be appointed by the Chairman of the Council of the District of Columbia, in consultation with the Chairs of the related committees of the Council, one of whom shall be a representative of the public;

(B) Four members to be appointed by the Mayor, one of whom shall be a representative of the public; and

(C) Four members to be appointed by the Chief Judge of the Superior Court of the District of Columbia, one of whom shall be a representative of the public.

(2) The Chair of the Commission shall be selected by the members of the Commission.

(d)(1) To be eligible for appointment as a Commissioner, other than as a member of the public, a person shall have individual expertise in a relevant discipline and familiarity with the laws, standards, and services related to youth safety and juvenile justice reform.

(2) To be eligible for appointment as a Commissioner as a representative of the public, a person shall not be required to have special expertise of any kind.

(e) The Office of the City Administrator shall provide administrative and staff support for the Commission and seek private financial support.

(Sept. 24, 2010, D.C. Law 18-223, § 5142, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 5142 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — Law 18-223, the “Fiscal Year 2011 Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively.

Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Short title. — Short title: Section 5141 of D.C. Law 18-223 provided that subtitle O of title V of the act may be cited as the “Commission on Juvenile Justice Reform Establishment Act of 2010”.

§ 2-1533.02. Juvenile Justice Reform Report.

Within 180 days of the empaneling of the Commission, pursuant to § 2-1533.01, the Commission shall submit a report to the Council of the District of Columbia, which shall include:

(1) A review and assessment of the implementation of the reforms recommended in the Report of the Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform;

(2) A review and assessment of the reforms recommended in the Blueprint for Action: Responding to Gang, Crew and Youth Violence in D.C.;

(3) An analysis of Part 1 and Part 2 juvenile-arrest cases of the preceding 3 years;

(4) An analysis of recidivism rates at the Department of Youth Rehabilitation Services (“DYRS”) and Court Social Services (“CSS”) of the preceding 3 years;

(5) An assessment of the federal, local, and private resources available to DYRS and CSS; and

(6) Recommendations on streamlining available resources and on increased coordination, transparency, and accountability between CSS, DYRS, the Metropolitan Police Department, and other District agencies to ensure the

confidential sharing of key information between these agencies and with identified community organizations with professional interest in the well-being of youth.

(Sept. 24, 2010, D.C. Law 18-223, § 5143, 57 DCR 6242.)

Emergency legislation. — For temporary (90 day) addition, see § 5143 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-1553.01.

Subchapter III. Juvenile Curfew.

§ 2-1541. Findings and purpose.

(a) The Council of the District of Columbia ("Council") has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 17 years in the District of Columbia.

(b) The Council has determined that persons under the age of 17 years are particularly susceptible, because of their lack of maturity and experience, to participate in unlawful and gang-related activities and to be the victims of older perpetrators of crime.

(c) The Council has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over, and responsibility for, children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

(d) The Council has determined that a curfew for those under the age of 17 years will be in the interest of the public health, safety, and general welfare and will help to attain these objectives and to diminish the undesirable impact of this conduct on the citizens of the District of Columbia.

(e) The Council determines that passage of a curfew law will protect the welfare of minors by:

(1) Reducing the likelihood that minors will be the victims of criminal acts during the curfew hours;

(2) Reducing the likelihood that minors will become involved in criminal acts or exposed to narcotics trafficking during the curfew hours; and

(3) Aiding parents or guardians in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care.

(Sept. 20, 1995, D.C. Law 11-48, § 2, 42 DCR 3627.)

Prior Codifications. — 1981 Ed., § 6-2181.

Temporary Amendment of Section. — For temporary (225 day) repeal of § 6(b) of Law 11-48, see § 2 of Juvenile Curfew and Retired Police Officer Redeployment Temporary Amendment Act of 1997 (D.C. Law 12-45, February 26, 1998, law notification 45 DCR 1506).

For temporary (225 day) repeal of § 6(b) of Law 11-48, see § 2 of Juvenile Curfew Amendment Act of 1998 (D.C. Law 12-128, June 20, 1998, law notification 45 DCR 6499).

Emergency legislation. — For temporary

(90 day) repeal expiration of this subchapter, see § 2 of the Juvenile Curfew and Retired Police Officer Redeployment Emergency Amendment Act of 1997 (D.C. Act 12-148, September 15, 1997, 44 DCR 5461).

For temporary (90 day) repeal of expiration of this subchapter, see § 2 of the Juvenile Curfew Emergency Amendment Act of 1998 (D.C. Act 12-345, April 27, 1998, 45 DCR 4616).

Legislative history of Law 11-48. — Law 11-48, the "Juvenile Curfew Act of 1995," was introduced in Council and assigned Bill No.

11-25, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 1995, and June 20, 1995, respectively. Signed by the Mayor on July

6, 1995, it was assigned Act No. 11-90 and transmitted to both Houses of Congress for its review. D.C. Law 11-48 became effective on September 20, 1995.

CASE NOTES

Validity.

Constitutional challenge to juvenile curfew statute as interfering with juveniles' alleged fundamental right of free movement, in violation of due process and equal protection clauses, would be reviewed under standard of intermediate scrutiny, not strict scrutiny. U.S. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

To withstand intermediate scrutiny, juvenile curfew statute challenged under due process and equal protection clauses had to be substantially related to the achievement of important government interests. U.S.C. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Even if juveniles had fundamental right to free movement, juvenile curfew statute was substantially related to important government interest in protecting welfare of minors, by reducing likelihood that minors would perpetrate or become victims of crime and by promoting parental responsibility, in view of evidence of increasing crime among minors, and defenses which narrowed scope of curfew; thus, curfew did not violate due process or equal protection clauses. U.S. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Defense to juvenile curfew statute which existed for First Amendment activities was not impermissibly vague, in violation of due process clause, as it was no more vague than First Amendment itself, and defense clearly applied to certain activities but not others. U.S.C. Const. Amends. 1, 14; D.C. Code 1981, §§ 6-2182, 6-2183, 6-2183(b)(1)(H). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Even if parents' fundamental, substantive due process right to direct and control their children's upbringing was implicated by juvenile curfew statute, statute was substantially

related to important government interest, and thus did not violate due process, as statute was carefully fashioned much more to enhance parental authority than to challenge it, and, through defenses to statute, parents retained ample authority to exercise parental control. U.S. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Juvenile curfew statute did not violate, on its face, juveniles' First Amendment rights, as there was no showing of more than mere possibility that statute might be unconstitutional in particular applications, and, in any event, statute did not by its terms regulate expressive conduct or burden disproportionately those engaged in expressive conduct. U.S. Const. Amend. 1; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Parents' fundamental, substantive due process right to direct and control their children's upbringing was not implicated by juvenile curfew statute, as parents' right was focused on parents' control of the home and their interest in controlling children's formal education. (Per Silberman, Circuit Judge, with three Circuit Judges concurring and three Circuit Judges concurring in the result.) U.S.C. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

District of Columbia's Juvenile Curfew Act violated due process and equal protection rights of minors and violated Fifth Amendment rights of parents and custodians to make decisions for their minor children and to raise their children in responsible manner. U.S.C. Const. Amends. 5, 14; D.C. Code 1981, § 6-2182(5). *Hutchins v. District of Columbia*, 942 F. Supp. 665, 1996 U.S. Dist. LEXIS 16467 (1996), affirmed by 144 F.3d 798, 330 U.S. App. D.C. 155, 1998 U.S. App. LEXIS 10303 (1998), reversed in part by, remanded by 188 F.3d 531, 338 U.S. App. D.C. 11, 1999 U.S. App. LEXIS 13635 (1999).

§ 2-1542. Definitions.

For the purposes of this subchapter, the term:

(1) "Curfew hours" means from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 6:00 a.m. on the following day, and

from 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday. During the months of July and August, the term “curfew hours” means from 12:01 a.m. until 6:00 a.m.

(2) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term “emergency” includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation that requires immediate action to prevent serious bodily injury or loss of life.

(3) “Establishment” means any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

(4) “Guardian” means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

(5) “Minor” means any person under the age of 17 years, but does not include a judicially emancipated minor or a married minor.

(6) “Narcotic trafficking” means the act of engaging in any prohibited activity related to narcotic drugs or controlled substances as defined in Chapter 9 of Title 48.

(7) “Operator” means any individual, firm, association, partnership, or corporation that operates, manages, or conducts any establishment. The term “operator” includes the members or partners of an association or partnership and the officers of a corporation.

(8) “Parent” means a natural parent, adoptive parent or step-parent, or any person who has legal custody by court order or marriage, or any person not less than 21 years of age who is authorized by the natural parent, adoptive parent, step-parent or custodial parent of a child to be a caretaker for the child.

(9) “Public place” means any place to which the public, or a substantial group of the public, has access, and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(10) “Remain” means to linger or stay or fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(11) “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Sept. 20, 1995, D.C. Law 11-48, § 3, 42 DCR 3627.)

Prior Codifications. — 1981 Ed., § 6-2182.

Emergency legislation. — For temporary (90 day) addition, see § 101 of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

Legislative history of Law 11-48. — For legislative history of D.C. Law 11-48, see Historical and Statutory Notes following § 2-1541.

Expiration of Law 11-48. — See notes to § 2-1541.

CASE NOTES

ANALYSIS

Emergency.
Responsible entity.

Emergency.

Defense to juvenile curfew statute which existed for emergencies was not impermissibly vague, in violation of due process clause, in light of statute's definition of "emergency." U.S. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2182(2, 11), 6-2183, 6-2183(b)(1)(E). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Responsible entity.

"Responsible entity" defense to juvenile cur-

few statute, which permitted participation in certain sponsored activities, was not impermissibly vague, in violation of due process clause, although it failed to define "a civic organization, or another similar entity that takes responsibility for the minor"; since defense by its own terms applied to activities sponsored by schools, religious organizations, or District of Columbia, phrase could be construed as including analogous organizations. U.S.C. Const. Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183, 6-2183(b)(1)(G). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

§ 2-1543. Curfew authority; defenses; enforcement and penalties.

(a)(1) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the District of Columbia during curfew hours.

(2) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the District of Columbia during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(b)(1) It is a defense to prosecution under this subchapter that the minor was:

(A) Accompanied by the minor's parent or guardian;

(B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(C) In a motor vehicle, train, or bus involved in interstate travel;

(D) Engaged in an employment activity pursuant to subchapter I of Chapter 2 of Title 32 or going to, or returning home from, an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk that abuts the minor's residence or that abuts the residence of a next-door neighbor if the neighbor did not complain to the Metropolitan Police Department about the minor's presence;

(G) In attendance at an official school, religious, or other recreational activity sponsored by the District of Columbia, a civic organization, or another similar entity that takes responsibility for the minor, or going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the District of Columbia, a civic organization, or another similar entity that takes responsibility for the minor; or

(H) Exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, freedom of speech, and the right of assembly.

(2) It is a defense to prosecution under subsection (a)(3) of this section that the owner, operator, or employee of an establishment promptly notified the Metropolitan Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(c)(1) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (b) of this section is proffered or is present.

(2) If a police officer determines that a minor is committing a curfew offense, the police officer shall take the minor to the nearest available Police District headquarters or substation or other area designated by the Metropolitan Police Department.

(3) A minor who violates this subchapter shall be detained by the Metropolitan Police Department at the nearest available Police District headquarters or substation or other area designated by the Metropolitan Police Department and released into the custody of the minor's parent, guardian, or an adult person acting in loco parentis. The minor's parent or an adult person acting in loco parentis with respect to the minor shall be called to the Police District headquarters or substation or other designated area to take custody of the minor. A minor who is released to a person acting in loco parentis with respect to the minor shall not be taken into custody for violation of this subchapter while returning home with the person acting in loco parentis. If no one claims responsibility for the minor, the minor may be taken to the minor's residence or placed in the custody of the appropriate official at the Family Services Administration of the Department of Human Services and, subsequently, released at 6:00 a.m. the following morning.

(d)(1) Any adult who violates a provision of this subchapter is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500 or community service.

(2) Parents or persons in loco parentis of the minor may, upon each conviction for violating this subchapter, be required to complete parenting classes pursuant to subchapter I of Chapter 14 of Title 7 or Title 16.

(3) When required by § 16-2302, charges brought under this subchapter shall be transferred to the Family Division of the Superior Court of the District of Columbia.

(4) A minor adjudicated of a violation of this subchapter by the Family Division of the Superior Court may be ordered to perform community service of up to 25 hours for each violation.

(e)(1) The Mayor shall report to the Council, not less than 90 days prior to the expiration of this subchapter, on the curfew's effectiveness and shall recommend that the curfew either be continued or discontinued.

(2) The Mayor shall include the following in the report required by this subsection:

(A) The number of minors detained and the number of persons fined as a result of a violation of this subchapter;

(B) The number of criminal homicides and other narcotic trafficking related crimes of violence committed during the time that this subchapter is in effect by age of persons involved and by time of day;

(C) The number of minors injured during the curfew hours as a result of crime and the cause of each injury; and

(D) The District's net cost of enforcing the ordinance.

(Sept. 20, 1995, D.C. Law 11-48, § 4, 42 DCR 3627.)

Prior Codifications. — 1981 Ed., § 6-2183.

Emergency legislation. — For temporary (90 day) addition of § 2-1553, see § 1402 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

For temporary (90 day) enactments, see §§ 211 to 213 of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

Legislative history of Law 11-48. — For legislative history of D.C. Law 11-48, see Historical and Statutory Notes following § 2-1541.

Expiration of Law 11-48. — See notes to § 2-1541.

Editor's notes. — Establishment of Alterna-

tive Curfew Hours for Individuals Below the Age of 17 Under the Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006, see Mayor's Order 2006-102, July 27, 2006 (53 DCR 6396).

Establishment of Alternate Curfew Hours for Individuals Below the Age of 17 Under the Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006, see Mayor's Order 2006-113, August 29, 2006 (53 DCR 9542).

Establishment of Alternate Curfew Hours for Individuals Below the Age of 17 Under the Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006, see Mayor's Order 2006-125, October 3, 2006 (53 DCR 9317).

CASE NOTES

Validity.

Juvenile curfew statute which provided that a police officer could not make an arrest unless the officer reasonably believed that an offense has occurred satisfied Fourth Amendment's probable cause requirement. U.S. Const.Amend. 4; D.C. Code 1981, § 6-2183(c)(1). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Constitutional challenge to juvenile curfew statute as interfering with juveniles' alleged fundamental right of free movement, in violation of due process and equal protection clauses, would be reviewed under standard of intermediate scrutiny, not strict scrutiny. U.S. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

To withstand intermediate scrutiny, juvenile curfew statute challenged under due process and equal protection clauses had to be substantially related to the achievement of important government interests. U.S.C. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v.*

District of Columbia, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Even if juveniles had fundamental right to free movement, juvenile curfew statute was substantially related to important government interest in protecting welfare of minors, by reducing likelihood that minors would perpetrate or become victims of crime and by promoting parental responsibility, in view of evidence of increasing crime among minors, and defenses which narrowed scope of curfew; thus, curfew did not violate due process or equal protection clauses. U.S. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Defense to juvenile curfew statute which existed for First Amendment activities was not impermissibly vague, in violation of due process clause, as it was no more vague than First Amendment itself, and defense clearly applied to certain activities but not others. U.S.C. Const.Amend. 1, 14; D.C. Code 1981, §§ 6-2182, 6-2183, 6-2183(b)(1)(H). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

“Responsible entity” defense to juvenile curfew statute, which permitted participation in certain sponsored activities, was not impermissibly vague, in violation of due process clause, although it failed to define “a civic organization, or another similar entity that takes responsibility for the minor”; since defense by its own terms applied to activities sponsored by schools, religious organizations, or District of Columbia, phrase could be construed as including analogous organizations. U.S.C. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183, 6-2183(b)(1)(G). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Defense to juvenile curfew statute which existed for activities on juvenile’s own sidewalk or the sidewalk of a neighbor if the neighbor did not complain to the police was not impermissibly vague, in violation of due process clause, despite its alleged delegation of discretion to neighbors. U.S. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183, 6-2183(b)(1)(F). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Defense to juvenile curfew statute which existed for emergencies was not impermissibly vague, in violation of due process clause, in light of statute’s definition of “emergency.” U.S. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2182(2, 11), 6-2183, 6-2183(b)(1)(E). *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Parents’ fundamental, substantive due process right to direct and control their children’s

upbringing was not implicated by juvenile curfew statute, as parents’ right was focused on parents’ control of the home and their interest in controlling children’s formal education. (Per Silberman, Circuit Judge, with three Circuit Judges concurring and three Circuit Judges concurring in the result.) U.S.C. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Even if parents’ fundamental, substantive due process right to direct and control their children’s upbringing was implicated by juvenile curfew statute, statute was substantially related to important government interest, and thus did not violate due process, as statute was carefully fashioned much more to enhance parental authority than to challenge it, and, through defenses to statute, parents retained ample authority to exercise parental control. U.S. Const.Amend. 14; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Juvenile curfew statute did not violate, on its face, juveniles’ First Amendment rights, as there was no showing of more than mere possibility that statute might be unconstitutional in particular applications, and, in any event, statute did not by its terms regulate expressive conduct or burden disproportionately those engaged in expressive conduct. U.S. Const.Amend. 1; D.C. Code 1981, §§ 6-2182, 6-2183. *Hutchins v. District of Columbia*, 188 F.3d 531, 1999 U.S. App. LEXIS 13635 (C.A.D.C. 1999).

Subchapter III-A. Children and Youth Initiative.

§ 2-1551. Short title.

This subchapter may be cited as the “Children and Youth Initiative Establishment Act of 1999”.

(Oct. 20, 1999, D.C. Law 13-38, § 2401, 46 DCR 6407.)

Legislative history of Law 13-38. — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of the Whole. The Bill was adopted on first and

second readings on May 11, 1999, and June 22, 1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

§ 2-1552. Children and Youth Initiative established.

There is established a Children and Youth Initiative (“Initiative”) to provide out-of-school programs for District of Columbia children and youth.

(Oct. 20, 1999, D.C. Law 13-38, § 2402, 46 DCR 6408.)

Legislative history of Law 13-38. — For Law 13-38, see notes following § 2-1551.

§ 2-1553. Grant making authority.

(a) Subject to the requirements in subsections (a-1) and (a-2) of this section, the Mayor is authorized to make grants to a single non-service provider, nonprofit organization of which at least 90% shall be used to make sub-grants for the purpose of providing services to District children, youth and their families, including, but not limited to, early childhood development opportunities, safe and enriching centers of learning in and out of school, and other training, recreational and educational services.

(a-1)(1) Sub-grants shall be awarded on a 3-year basis, subject to the availability of funding.

(2) At least 50% of the members of a review panel for sub-grant applications shall be individuals who are not employees or contractors of the Children Youth Investment Trust Corporation.

(3) All sub-grants of District funds shall be awarded on a competitive basis, except in the case of an emergency circumstance, as determined by a vote of the Board of Directors.

(a-2) No grant may be awarded under this section in excess of \$1 million during a 12-month period, either singularly or cumulatively, unless the grant is submitted to the Council for approval, in accordance with § 1-204.51, or by act.

(a-3) To be eligible to receive a grant pursuant to subsection (a) of this section, the non-service provider, nonprofit organization shall meet the following requirements:

(1) All positions on the Board of Directors are filled, including any position for nonvoting government officials, unless a vacancy has occurred on the board because a board member's term expired or terminated for any reason; provided, that the position is filled within 90 days of the vacancy.

(2) Each board member serving has demonstrated knowledge and experience in the disciplines that are the focus of the mission of the non-service provider, nonprofit organization.

(b) There is authorized to be appropriated such funds as may be necessary to carry out the purposes of the Child and Youth Investment Fund [established in the General Fund].

(c) Beginning October 1, 2009, the Mayor shall submit a quarterly status report to the Council for all grants in excess of \$1 million, which includes:

- (1) Detailed grantee data;
- (2) Performance measures and performance outcomes under each grant;
- (3) The specific services provided to children and youth under each grant;
- (4) The entity providing the services, if one other than the grantee;
- (5) The time period of delivery of the services;
- (6) The type of service provided;
- (7) The actual amount paid for the services; and
- (8) The amount of other expenditures under the grant, if any.

(Oct. 20, 1999, D.C. Law 13-38, § 2403, 46 DCR 6408; Oct. 1, 2002, D.C. Law

14-190, § 1402, 49 DCR 6968); Mar. 3, 2010, D.C. Law 18-111, § 5061(a), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 5092, 57 DCR 6242.)

Effect of amendments. — D.C. Law 18-111, in subsec. (a), substituted “Subject to the requirements in subsections (a-1) and (a-2) of this section, the Mayor” for “The Mayor”; and added subsecs. (a-1), (a-2), and (c).

D.C. Law 18-223, in subsec. (a), substituted “nonprofit” for “non-profit”; and added subsecs. (a-1)(3) and (a-3).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of the Service Improvement and Fiscal Year 2000 Budget Support Temporary Amendment Act of 2002 (D.C. Law 14-172, July 23, 2002, law notification 49 DCR 8266).

For temporary (225 day) amendment of section, see § 2 of the Service Improvement and Fiscal Year 2000 Budget Support Temporary Amendment Act of 2003 (D.C. Law 15-15, June 21, 2003, law notification 50 DCR 5459).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of Service Improvement and Fiscal Year 2000 Budget Support Emergency Amendment Act of 2003 (D.C. Act 15-47, March 24, 2003, 50 DCR 2818).

For temporary (90 day) amendment of section, see § 2 of Children and Youth Initiative Establishment Emergency Amendment Act of 2009 (D.C. Act 18-94, May 25, 2009, 56 DCR 4313).

For temporary (90 day) amendment of section, see § 5061(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 5061(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 5092 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 14-190. — Law 14-190, the “Fiscal Year 2003 Budget Support Act of 2002”, was introduced in Council and assigned Bill No. 14-609, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on July 3, 2002, it was assigned Act No. 14-403 and transmitted to both Houses of Congress for its review. D.C. Law 14-190 became effective on October 1, 2002.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title of title XIV of Law 14-190: Section 1401 of D.C. Law 14-190 provided that title XIV of the act may be cited as the Children and Youth Investment Fund Amendment Act of 2002.

Short title: Section 5060 of D.C. Law 18-111 provided that subtitle G of title V of the act may be cited as the “Children and Youth Initiative Establishment Amendment Act of 2009”.

Short title: Section 5091 of D.C. Law 18-223 provided that subtitle J of title V of the act may be cited as the “Children and Youth Initiative Establishment Amendment Act of 2010”.

Delegation of Authority. — Delegation of Authority-Grant Making Authority to Child and Family Services Agency and Department of Youth Rehabilitation Services, see Mayor’s Order 2006-55, May 10, 2006 (53 DCR 5311).

Delegation of authority-Grant Making Authority to Department of Employment Services, see Mayor’s Order 2007-59, February 27, 2007.

§ 2-1554. Biannual assessment and funding report.

The Children and Youth Investment Corporation, or a successor single non-service provider, nonprofit organization, shall submit a biannual assessment and funding report to the Council, which includes:

- (1) A research-based needs assessment of at-risk youth, which identifies:
 - (A) Available resources;
 - (B) Needed resources, if any; and
 - (C) Any gap in services; and
- (2) A list of funding priorities based upon the needs assessment.

(Oct. 20, 1999, D.C. Law 13-38, § 2404a, as added Mar. 3, 2010, D.C. Law 18-111, § 5061(b), 57 DCR 181.)

Emergency legislation. — For temporary (90 day) addition, see § 5061(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 5061(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Subchapter IV. Youth Advisory Council.

§ 2-1561. Definitions.

For the purposes of this subchapter, the term:

(1) “Youth” means an individual who is at least 13 years of age and no older than 22 years of age.

(2) “Youth Council” means the District of Columbia Youth Advisory Council established by § 2-1562.

(June 25, 2002, D.C. Law 14-145, § 2, 49 DCR 4063.)

Legislative history of Law 14-145. — Law 14-145, the “District of Columbia Youth Advisory Council Establishment Act of 2002”, was introduced in Council and assigned Bill No. 14-255, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 5, 2002, and April 9, 2002, respectively. Signed by

the Mayor on May 10, 2002, it was assigned Act No. 14-323 and transmitted to both Houses of Congress for its review. D.C. Law 14-145 became effective on June 25, 2002.

Editor’s notes. — Establishment of the D.C. Youth Investment Collaborative, see Mayor’s Order 2002-44, March 8, 2002 (49 DCR 2247).

§ 2-1562. Establishment and purpose.

(a) There is established, as part of the District of Columbia government, a Youth Advisory Council (“Youth Council”).

(b) The Youth Council shall advise the Mayor, the Council of the District of Columbia, District of Columbia Public Schools, public charter schools, other key decision makers in the District government, and adult leaders in the District by:

- (1) Commenting on legislation and policies that impact youth;
- (2) Presenting methods to resolve conflicts involving youth;
- (3) Presenting issues that affect youth and providing recommendations to improve the lives of youth;
- (4) Monitoring programs and policies that affect youth to ensure that they are achieving the intended results; and
- (5) Working with other youth organizations in the District to:
 - (A) Provide mutual support;
 - (B) Collaborate on shared issues and interests;
 - (C) Advise one another on ways to increase their effectiveness;
 - (D) Assist in the start-up of new youth organizations, including youth organizations for each ward of the District;
 - (E) Prepare youth for leadership positions by providing appropriate training; and
 - (F) Create more youth and adult partnerships.

(c) The Youth Council shall convene a general assembly of youth organizations within the District on a regularly scheduled basis.

(June 25, 2002, D.C. Law 14-145, § 3, 49 DCR 4063.)

Legislative history of Law 14-145. — For Law 14-145, see notes following § 2-1561.

§ 2-1563. Composition of the Youth Council.

(a) The Youth Council shall be composed of 32 youth from various geographic sectors of the District, and shall include members who represent youth with special needs, as follows:

(1) Three members shall be from each of the 8 wards in the District;

(2) Four members shall be presently under an order of commitment to the District's juvenile justice system, at least one of whom presently resides in a group home; and

(3) Four members shall be presently in the District's foster care system; at least one of whom shall reside in a group home.

(b) Membership of the Youth Council shall reflect a broad range of diversity encompassing relevant differences in ethnicity, location of residency within the District, religion, and gender.

(c) Members of the Youth Council shall have been a District resident for at least one year, not including time residing in a college dormitory, prior to their application to serve on the Youth Council. College students shall be eligible to participate on the Youth Council, if they have been a District resident, living outside a college dormitory, for at least one year prior to their application to serve on the Youth Council.

(d) Youth applying to participate on the Youth Council shall have:

(1) A sincere interest in, and motivation to work for the community;

(2) A background of community-based activity;

(3) A general knowledge of activities and needs in the sector of the community which they are selected to represent;

(4) An ability to bring creative perspectives about youth issues and concerns to the Youth Council;

(5) The ability to work patiently and constructively in a group setting;

(6) The ability to responsibly fulfill commitments; and

(7) An interest in the development of leadership skills.

(June 25, 2002, D.C. Law 14-145, § 4, 49 DCR 4063.)

Legislative history of Law 14-145. — For Law 14-145, see notes following § 2-1561.

§ 2-1564. Organizational structure.

(a) After June 25, 2002, the Mayor shall publicly announce and widely disseminate information to District residents that:

(1) Describes the functions and purpose of the Youth Council;

(2) Explains the process of selection and appointment to the Youth Council; and

(3) Solicits applications from youth who desire to serve on the Youth Council.

(b) A selection committee shall be formed by the Youth Advisory Council Taskforce with the approval of the Mayor. The selection committee shall screen, interview, and select the first 32 members of the Youth Council. Following the first year, Youth Council members shall select the next year's members. The selection committee shall consist of:

- (1) Twice as many young people as adults;
- (2) Representatives of community based organizations;
- (3) Representatives of faith based organizations; and
- (4) Representatives of government.

(c) The Youth Council shall select 6 officers to serve leadership positions. In addition, the Youth Council may create other leadership positions as deemed necessary. In its first year of operation, the Chair shall be chosen by the selection committee from among the initial 32 Youth Council members, with the approval of the Mayor. The Chair shall serve for one year. The selection of these 32 members shall be made prior to the Youth Council's initial retreat. All other officers shall be selected by the Youth Council at their retreat, and shall serve for one year. Thereafter, the Youth Council shall select all officers. The officers shall be as follows:

- (1) Chair;
- (2) Vice Chair;
- (3) Secretary;
- (4) Assistant Secretary;
- (5) Treasurer; and
- (6) Parliamentarian.

(d) Members of the Youth Council shall be selected to serve a 2-year term. Member shall only serve 2 terms. Youth Council Officers shall be selected to serve a one-year term. Officers may be re-elected, but shall not serve more than 3 terms in any office or combination of offices.

(e) A group of 8 Advisors shall work with the Youth Council and shall provide assistance as needed. Advisors shall not vote on Youth Council business and shall only provide support upon the specific request of the Youth Council. Four of the 8 advisors shall be adults and 4 shall be youth. In the first year after the establishment of the Youth Council, 2 youth and 2 adult advisors shall be selected by the Youth Summit Advisory Board. The remaining 2 youth and 2 adult advisors shall be selected by the Youth Council members. Thereafter, the advisors shall be selected by the Youth Council.

(f) To ensure an orderly transition from veteran outgoing Youth Council members to incoming novice members, terms during the first year shall be staggered as follows: Members of the initial Youth Council shall either serve one, two, or three year terms. Twelve members shall serve a one-year term, 12 members shall serve a 2-year term, and 8 members shall serve a 3-year term. Members who are selected to serve a one-year term, shall sit out at least one year before seeking re-election to the Youth Council. Terms shall be determined following the first year of the Youth Council based on two factors:

(1) Members shall be asked to indicate their preference for leaving the Youth Council or staying for an additional term.

(2) The initial Youth Council members who are willing to serve additional terms shall be graded along a performance based system. During the initial Youth Council retreat, all members shall be asked to agree upon one-year goals for the Youth Council to accomplish. Members shall also create their own one-year goals. Members shall be graded on their performance in accomplishing both sets of goals by the 8 advisors in a manner that is consistent for each Youth Council member.

(g) The Youth Council shall establish standing committees. The Youth Council shall have the discretion to create other standing committees as needed. The 4 committees are:

- (1) Rules;
- (2) Executive;
- (3) Finance; and
- (4) Outreach.

(h) The first Youth Council shall create the rules and bylaws to which all future Youth Councils shall adhere.

(i) The Youth Council Secretary and Assistant Secretary shall be the official record keepers. They shall be responsible for documenting and archiving all meeting minutes, and other relevant decisions or documents. The Youth Council Treasurer shall record and archive all financial transactions.

(j)(1) Subject to Congressional appropriations, one full-time staff person shall be hired to serve as a Youth Coordinator. The Youth Coordinator shall be:

- (A) A staff member of the Office of Neighborhood Action; and
- (B) Selected by Neighborhood Action on the basis of the Youth Council's recommendation.

(2) Youth may be hired to work part-time as needed.

(k) The Youth Coordinator shall assist with all phases of the publicizing, screening, candidate selection and operation of the Youth Council. In addition, some young people may be hired to work part-time for the Youth Council as needed.

(l) The Youth Council Chair shall be responsible for calling meetings to order and for facilitating these meetings. Meetings shall be conducted following parliamentary procedures as described in Robert's Rules of Order.

(m) Quorum requirements shall be as follows:

(1) Two-thirds of the Youth Council members must be present for a quorum; and

(2) At least one member representing each of the ten groups shall also be present.

(n) Every Youth Council member shall serve on at least one committee. In order to serve as chair of a committee, members shall be in good standing and shall have knowledge of the committee's subject matter. Committee chairs shall serve for one year. Committee chairs shall be eligible to serve more terms, if selected to do so.

(o) All members shall attend a minimum of 75% of Youth Council meetings. Members shall also attend the minimum number of committee meetings as determined by the committee.

(p) Within 2 years of operation, the Youth Council shall initiate advisory groups or forums within each ward, and for the juvenile justice and foster care communities. These groups shall serve as both a source for future Youth Council members, and as a vehicle for soliciting input from around the District, and a method of sharing information about Youth Council activities.

(q)(1) Beginning one year after its first meeting and every year thereafter, the Youth Council shall publish a report of its activities, recommendations, and accomplishments.

(2) The report shall be distributed to the Mayor, the Council of the District of Columbia, the District of Columbia Public Schools, public charter schools, and other key District leadership.

(3) Copies of the report shall be placed on the Internet, in each public library, the library of each public and public charter school, and shall be made available upon request to the general public.

(r)(1) Members of the Youth Council shall serve without compensation, except that members may be reimbursed for expenses incurred in the authorized execution of official Youth Council duties.

(2) The Mayor and his or her designee shall provide administrative support to the Youth Council and may accept resources provided from public or private organizations for the benefit of the Youth Council.

(June 25, 2002, D.C. Law 14-145, § 5, 49 DCR 4063.)

Legislative history of Law 14-145. — For Law 14-145, see notes following § 2-1561.

Subchapter IV-A. Youth Council of the District of Columbia.

§ 2-1565.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Youth” means an individual who is at least 13 years of age and no older than 22 years of age.

(2) “Youth Council” means the Youth Council of the District of Columbia, established in § 2-1565.02.

(Oct. 22, 2008, D.C. Law 17-251, § 2, 55 DCR 9247.)

Legislative history of Law 17-251. — Law 17-251, the “Youth Council of the District of Columbia Establishment Act of 2008”, was introduced in Council and assigned Bill No. 17-582 which was referred to the Committee on the Whole. The Bill was adopted on first and

second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-498 and transmitted to both Houses of Congress for its review. D.C. Law 17-251 became effective on October 22, 2008.

§ 2-1565.02. Establishment and duties.

(a) There is established the Youth Council of the District of Columbia.

(b) The Youth Council members shall advise the Council of the District of Columbia (“Council”) by:

(1) Commenting upon legislation and policies that impact on youth;

- (2) Presenting issues and recommendations to improve the lives of youth;
- (3) Monitoring the programs and policies that affect youth to ensure that they are achieving the intended results; and
- (4) Working with other youth organizations in the District to:
 - (A) Provide mutual support;
 - (B) Collaborate on shared issues and interests;
 - (C) Advise one another on ways to increase the effectiveness of their organizations;
 - (D) Assist in the start-up of new youth organizations, including youth organizations for each ward of the District;
 - (E) Prepare youth for leadership positions by providing appropriate training; and
 - (F) Create more youth and adult partnerships.
- (c) The Youth Council shall conduct periodic seminars for members regarding leadership, government, and the Council.
- (d)(1) The Youth Council shall:
 - (A) Set its own priorities;
 - (B) Determine the function of its subcommittees;
 - (C) Establish standards of conduct;
 - (D) Establish ministerial procedures; and
 - (E) Determine its needs for the convening of meetings.
- (2) Youth Council members shall review and consider the procedures and rules of the Council, as they may be appropriate for the Youth Council.
- (e) Beginning one year after its first meeting and every year thereafter, the Youth Council shall publish a report of its activities, recommendations, and accomplishments, which shall be:
 - (1) Distributed to the Council;
 - (2) Placed on the Internet;
 - (3) Distributed to each public library, and the library of each public and public charter school; and
 - (4) Made available to the public upon request.
- (f) The Youth Council shall meet at least 4 times a year, including at least one public hearing on issues of importance to youth.

(Oct. 22, 2008, D.C. Law 17-251, § 3, 55 DCR 9247.)

Legislative history of Law 17-251. — For Law 17-251, see notes following § 2-1565.01.

§ 2-1565.03. Composition of the Youth Council.

- (a) The Youth Council shall be comprised of 13 members. Each of the 8 ward members of the Council shall select a member from among the applicants to represent his or her respective ward. The Chairman and each of the 4 at-large members of the Council shall select a member from among the applicants to serve as one of the 5 at-large members of the Youth Council.
- (b) The Chairman of the Council shall appoint a committee to create an application process, which shall include an application form, the requirements

for recommendations, deadlines, and any other information that will assist youths to state their interest in serving on the Youth Council.

(c) A Youth Council member shall:

(1) Be a District resident for at least one year, excluding time residing in a college dormitory, prior to his or her application to serve on the Youth Council;

(2) Be a college student who has been a District resident living outside a college dormitory for at least one year prior to his or her application to serve on the Youth Council;

(3) Have a sincere interest in, and motivation to work for, the community;

(4) Have a background of community-based activity;

(5) Have a general knowledge of the activities and needs in the sector of the community that he or she will represent;

(6) Have an ability to bring creative perspectives about youth issues and concerns;

(7) Have the ability to work patiently and constructively in a group setting;

(8) Be responsible and able to fulfill commitments; and

(9) Have an interest in the development of leadership skills.

(d) Members shall serve for a term of 2 years. A member may be reappointed, but may not serve more than 2 full terms.

(e) A chairman shall be selected by the Youth Council members.

(f) Vacancies shall be filled in the same manner as the initial appointment. A member appointed to fill a vacancy shall serve for the remainder of the unexpired term.

(g) Members of the Youth Council shall serve without compensation.

(Oct. 22, 2008, D.C. Law 17-251, § 4, 55 DCR 9247.)

Legislative history of Law 17-251. — For Law 17-251, see notes following § 2-1565.01.

§ 2-1565.04. Staff.

(a) One adult person shall be hired as a full-time youth planner, and youth may be hired to work part-time, as needed.

(b) The Council shall provide staff assistance to the Youth Council from within its existing budgeted resources or from grants received by the Council for this purpose. Staff assigned by the Council to the Youth Council shall assist with the drafting of all legislation submitted to the Council by the Youth Council. Youth Council staff may be curtailed during periods when the Council is in regular or special session.

(Oct. 22, 2008, D.C. Law 17-251, § 5, 55 DCR 9247.)

Legislative history of Law 17-251. — For Law 17-251, see notes following § 2-1565.01.

§ 2-1565.05. Integration with learning standards.

Local Education Agencies may seek the cooperation of the Council on the integration of Youth Council experience into relevant District of Columbia learning standards and toward meeting graduation requirements.

(Oct. 22, 2008, D.C. Law 17-251, § 6, 55 DCR 9247.)

Legislative history of Law 17-251. — For Law 17-251, see notes following § 2-1565.01.

§ 2-1565.06. Funding.

(a) Gifts, grants, and donations from private or public sources may be used to fund the costs of the Youth Council. Contributions to support the work of the Youth Council may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied by the Youth Council or who would in any way compromise the work of the Youth Council.

(2) A person, other than a District of Columbia agency, desiring to make a financial or in-kind contribution must certify to the Council, or its designee, in the manner prescribed by the Council, that the person has no pecuniary or other vested interest in the outcome of the work of the Youth Council. All contributions are subject to approval by the Council, or its designee.

(3) The Secretary to the Council shall administer any funds received by the Youth Council. Prior to the beginning of each fiscal year, the Secretary shall notify the Youth Planner and Chair of the Youth Council of the status of funding.

(Oct. 22, 2008, D.C. Law 17-251, § 7, 55 DCR 9247.)

Legislative history of Law 17-251. — For Law 17-251, see notes following § 2-1565.01.

Subchapter V. Mayor's Youth Leadership Institute.

§ 2-1571. Definitions.

For the purposes of this subchapter, the term:

(1) "Acceptable level of school attendance" means that a student has not accrued unexcused absences exceeding 5% of the total days in a school year and has not violated the requirements for mandatory school attendance under § 38-202.

(2) "Eligible District youth" means an individual who is a domiciliary of the District and is between 14 and 19 years of age.

(3) "Institute" means the Mayor's Youth Leadership Institute.

(Oct. 20, 2005, D.C. Law 16-32, § 2, 52 DCR 7475.)

Legislative history of Law 16-32. — Law 16-32, the "Mayor's Youth Leadership Institute Act of 2005", was introduced in Council and assigned Bill No. 16-107 which was referred to

the Committee on Government Operations. The Bill was adopted on first and second readings on June 7, 2005, and July 6, 2005, respectively. Signed by the Mayor on July 26, 2005, it was

assigned Act No. 16-152 and transmitted to both Houses of Congress for its review. D.C. Law 16-32 became effective on October 20, 2005.

§ 2-1572. Establishment.

(a) The Mayor shall establish an Institute to be known as the Mayor's Youth Leadership Institute and shall provide programs in professional development, leadership training, and personal development for all eligible District youth. The focus of the program shall include:

(1) Building skill expertise in word processing, Powerpoint presentations, and database and spreadsheet maintenance;

(2) Drafting memos, letters, and press releases; and

(3) Public speaking.

(b) The program shall seek to ensure that participants reach proficiency in these skills which are essential to successfully compete for and retain employment.

(c) The programs shall include:

(1) A school-year program to provide services and instruction to at least 500 eligible District youth; and

(2) A summer training program that shall consist of 2 sessions, each conducted over a 2-week period at a District college or university, and provide services and instruction to at least 250 eligible District youth.

(Oct. 20, 2005, D.C. Law 16-32, § 3, 52 DCR 7475.)

Legislative history of Law 16-32. — For Law 16-32, see notes following § 2-1571.

§ 2-1573. Eligibility.

(a) First time participants in the program shall maintain an acceptable level of school attendance during the preceding academic year in order participate. The superintendent of schools or his designee shall certify that each prospective participant has maintained an acceptable level of school attendance during the preceding academic year.

(b) Eligible District youth participating twice or more in the program shall maintain an acceptable level of school attendance and at least a 2.0 cumulative grade point average during the preceding academic year. The superintendent of schools or his designee shall certify that each of these participants has maintained an acceptable level of school attendance and at least a 2.0 cumulative grade point average during the preceding academic year.

(Oct. 20, 2005, D.C. Law 16-32, § 4, 52 DCR 7475.)

Legislative history of Law 16-32. — For Law 16-32, see notes following § 2-1571.

§ 2-1574. Rules.

The Mayor shall issue rules to implement the provisions of this subchapter.

The proposed rules shall be submitted by the Mayor to the Council for review and approval.

(Oct. 20, 2005, D.C. Law 16-32, § 5, 52 DCR 7475.)

Legislative history of Law 16-32. — For Law 16-32, see notes following § 2-1571.

Subchapter VI. Youth Development Plan.

§ 2-1581. Youth Development Plan.

The Mayor shall oversee the implementation of District's Youth Development Plan, which has been designed to:

- (1) Increase the quality of coordination and collaboration among all stakeholders to deliver city-funded youth services;
- (2) Advance the positive youth development philosophy and policy approach;
- (3) Effectively implement youth violence prevention and intervention strategies;
- (4) Provide for consistent and sustained investment in the city's youth guided by positive youth development; and
- (5) Directly impact upon challenges affecting adolescent youth and disconnected youth.

(Mar. 2, 2007, D.C. Law 16-192, § 1152, 53 DCR 6899.)

Emergency legislation. — For temporary (90 day) addition, see § 1152 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1152 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1152 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative history of Law 16-192. — Law

16-192, the "Fiscal Year Budget Support Act of 2006", was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

Short title. — Short title: Section of D.C. Law 16-192 provided that subtitle N of title I of the act may be cited as the "Youth Development Plan Implementation Strategy Act of 2006".

§ 2-1582. Strategy update.

(a) The Mayor, within 30 days of the adoption of the budget, shall disseminate the budget and implementation strategy for the Youth Development Plan for each fiscal year ("youth development report"). Copies of the youth development report shall be transmitted to each member of the Council and posted on the District government's website. This report shall summarize the successes and difficulties of the previous year's strategy and any new youth development initiatives that are to be included in the plan for the upcoming year.

(b) The youth development report shall also include qualitative and quantitative outcome measures and performance measures ("measures") for each

implemented initiative (“measures”). Outcome measures and performance measures for other initiatives shall be developed as soon as practicable. The Deputy Mayor for Children, Youth, Families and Elders and the Deputy Mayor for Public Safety and Justice shall develop these measures upon advice from the Youth Development Plan Executive Working Group established under § 2-1585.

(c) For purposes of this section, the term “Qualitative and quantitative outcome measures and performance measures” means indicators of progress toward achieving the citywide goals established in the Children’s Budget Report and ensuring that youth development programs are provided effectively and efficiently.

(Mar. 2, 2007, D.C. Law 16-192, § 1153, 53 DCR 6899.)

Emergency legislation. — For temporary (90 day) addition, see § 1153 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1153 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1153 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative history of Law 16-192. — For Law 16-192, see notes following § 2-1581.

§ 2-1583. Realignment of funding priorities.

(a) Notwithstanding any other law to the contrary, any reprogramming of money that relates to the funding of the Youth Development Plan’s budget or the Children’s Budget shall conform with the citywide goals for children and youth identified in the Children’s Budget Report. The city-wide goals for children and youth are:

- (1) Children are ready for school.
- (2) Children and youth succeed in school;
- (3) Children and youth practice healthy behaviors;
- (4) Children and youth engage in meaningful activities;
- (5) Children and youth live in healthy, stable, and supportive families; and
- (6) All youth make a successful transition to adulthood.

(b) Reprogrammed funds may only be allocated to meet the one of the following specific goals for which such funding was made.

(Mar. 2, 2007, D.C. Law 16-192, § 1154, 53 DCR 6899.)

Emergency legislation. — For temporary (90 day) addition, see § 1154 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1154 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1154 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative history of Law 16-192. — For Law 16-192, see notes following § 2-1581.

§ 2-1584. Funding priorities.

(a) In fiscal year 2007, the youth development plan shall be funded by a \$1 million allocation to the Office of the City Administrator to be used as follows:

(1) An amount of \$600,000 for gang intervention services, including the Violence Intervention Partnership to reduce youth violence in communities east of the Anacostia River through innovative law enforcement, conflict resolution, and intervention and prevention strategies through a collaborative effort by community leaders, law enforcement officers, government agencies, faith-based institutions, community-based organizations, educators, and youth outreach workers.

(2) An amount of \$300,000 for girls leadership and violence prevention programs, including a program to study violence among female youth and implement programs to address this issue; and

(3) An amount of \$100,000 for youth worker training in positive youth development principles and methods.

(b) The Mayor shall designate additional resources for the Youth Development Plan from agencies that will provide services and support for the Plan's initiatives, subject to the provisions of § 2-1583 and applicable laws and regulations.

(Mar. 2, 2007, D.C. Law 16-192, § 1155, 53 DCR 6899.)

Emergency legislation. — For temporary (90 day) addition, see § 1155 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1155 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1155 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative history of Law 16-192. — For Law 16-192, see notes following § 2-1581.

§ 2-1585. Executive Working Group.

(a) There is established a Youth Development Plan Executive Working Group ("Working Group"), that shall advise its chair on the youth development plan. The chair of the Working Group shall be the Deputy Mayor for Children, Youth, Families and Elders ("chair"). The other members of the Executive working group shall include:

(1) Current members of the Youth Development Plan's executive steering committee, including the Deputy Mayor for Public Safety and, the Superintendent of the District of Columbia Public Schools, the City Administrator, and the President of the District of Columbia Children and Youth Investment Trust Corporation;

(2) The Director of the District of Columbia Department of Employment Services;

(3) A member of the Council, as designated the Council Chairman;

(4) Adolescent youths, to be selected by the chair of the Executive Working Group as follows:

(A) A member of the Mayor's Youth Advisory Council,

(B) A system-involved youth who may be a youth who is legally a ward of, or committed to the care of the District of Columbia, or who is under the care of, the Department of Mental Health, and

(C) At least one youth who resides in the District;

(5) At least one representative from the Department of Parks and Recreation, as selected by the chair;

(6) At least one representative from the Department of Youth Rehabilitative Services, as selected by the chair;

(7) At least one representative from the Child and Family Services Agency, as selected by the chair;

(8) At least one representative from the Metropolitan Police Department, as selected by the Deputy Mayor for Public Safety & Justice;

(9) Representatives from other governmental agencies and instrumentalities as selected by the chair; and

(10) At least 2 District residents who have demonstrated an interest in youth violence or youth development in the District.

(b) The operations of the Working Group shall be subject to the discretion of the chair; provided, that Working Group shall meet at least twice a year. The chair of the Working Group shall work to ensure that the Group receives meaningful, informed feedback and input from its youth members.

(Mar. 2, 2007, D.C. Law 16-192, § 1156, 53 DCR 6899.)

Emergency legislation. — For temporary (90 day) addition, see § 1156 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1156 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1156 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) addition, see § 602 of Crime Bill Emergency Amendment Act of 2009 (D.C. Act 18-129, June 29, 2009, 56 DCR 5495).

Legislative history of Law 16-192. — For Law 16-192, see notes following § 2-1581.

Subchapter VII. Interagency Collaboration and Services Integration Commission.

§ 2-1591. Short title.

This subchapter may be cited as the “Interagency Collaboration and Services Integration Commission Establishment Act of 2007”.

(June 12, 2007, D.C. Law 17-9, § 501, 54 DCR 4102.)

Legislative history of Law 17-9. — Law 17-9, the “Public Education Reform Amendment Act of 2007”, was introduced in Council and assigned Bill No. 17-1, which was referred to Committee of the Whole. The Bill was adopted on first and second readings on April 3, 2007, and April 19, 2007, respectively. Signed

by the Mayor on April 23, 2007, it was assigned Act No. 17-38 and transmitted to both Houses of Congress for its review. D.C. Law 17-9 became effective on June 12, 2007.

Editor’s notes. — Applicability: Section 508 of Law 17-9 provided that this title this subchapter shall apply upon Congressional enact-

ment of Title IX. Congress enacted the provisions of Title IX in Pub. L. 110-33, approved June 1, 2007.

§ 2-1592. Definitions.

For the purposes of this subchapter, the term:

(1) “Commission” means the Statewide Commission on Children, Youth, and their Families established in § 2-1594.

(2) “Comprehensive, multi-disciplinary assessment” means an assessment of children to determine the extent to which they are affected by risk and protective factors as individuals and as members of families, communities, and schools, and the extent to which they have service needs resulting from emotional disturbance, substance abuse, exposure to violence, or learning disabilities.

(3) “Evidence-based program” means a program that:

(A) Has been affirmatively evaluated by an independent agency with demonstrated expertise in evaluation;

(B) Demonstrates effectiveness in accomplishing its intended purposes and yields statistically significant supporting data; and

(C) Has been replicated in other communities with a level of effectiveness comparable to that indicated in the evaluation required by subparagraph (A) of this paragraph;

(4) “Integrated service plan” means a service plan that promotes delivery of services that are, to the fullest extent possible, comprehensive, implemented without interruption, and free from duplication or redundancy.

(5) “Risk and protective factors” means a circumstance or set of circumstances that assist in determining whether an individual is at risk of harm, emotional, physical, or otherwise; and

(6) “School-based clinician” means a healthcare or social-services practitioner, a mental-health professional, or substance abuse counselor certified or licensed in his or her field by the Director of the Department of Health or another nationally recognized professional organization, qualified to conduct comprehensive, multi-disciplinary assessments.

(June 12, 2007, D.C. Law 17-9, § 502, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(a), 57 DCR 181.)

Effect of amendments. — D.C. Law 18-111 rewrote par. (1), which had read as follows: “(1) ‘Commission’ means the Interagency Collaboration and Services Integration Commission established by § 2-1594.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 4061(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 4061(a) of Fiscal Year Budget Support Congressional Review Emergency Amend-

ment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

Short title. — Short title: Section 4060 of D.C. Law 18-111 provided that subtitle G of title IV of the act may be cited as the “Interagency Collaboration and Services Integration Commission Establishment Amendment Act of 2009”.

§ 2-1593. **Purpose.**

The purpose of the Commission is to promote a vision of the District of Columbia as a stable, safe, and healthy environment for children, youth, and their families by reducing juvenile and family violence and promoting social and emotional skills among children, youth, and their families through the oversight of a comprehensive, community-based integrated service delivery system aligned with the statewide strategic education and youth development plan, described in § 38-191, that includes:

(1) Comprehensive, multi-disciplinary assessments of children by school-based clinicians;

(2) Authority over a management information system that enables the inter-agency exchange of information and protects families' privacy rights;

(3) Facilitation of resource sharing and inter-agency collaboration on multi-disciplinary projects;

(4) Development and implementation of proven, evidence-based preventive and interventive programs for children and families by educational, law enforcement, mental health, and social services agencies;

(5) Development of integrated service plans for individual children and families that promote the delivery of services that are comprehensive, implemented without interruption, and free from duplication or redundancy; and

(6) Independent evaluation of the effectiveness of the programs developed pursuant to, or in accordance with, this subchapter, including:

(A) Their impact on academic performance, levels of violence by and against children, truancy, and delinquency;

(B) The cost effectiveness of the programs, taking into account such factors as reductions, or potential reductions, in out-of-home placements and law enforcement expenditures; and

(C) The extent to which the Commission has developed the capacity to sustain the programs and activities.

(June 12, 2007, D.C. Law 17-9, § 503, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(b), 57 DCR 181.)

Effect of amendments. — D.C. Law 18-111 rewrote the lead-in language, which had read as follows: "The purpose of the Commission is to address the needs of at-risk children by reducing juvenile and family violence and promoting social and emotional skills among children and youth through the oversight of a comprehensive integrated service delivery system that includes:"

Emergency legislation. — For temporary (90 day) amendment of section, see § 4061(b) of Fiscal Year 2010 Budget Support Second Emer-

gency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 4061(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

§ 2-1594. **Commission; establishment; authority.**

(a) There is established the Statewide Commission on Children, Youth, and their Families.

(b) Unless expressly prohibited in law or regulation, the Commission shall have the authority to:

(1) Combine local, federal, and other resources available to the participating education, law enforcement, and human services agencies to provide comprehensive multi-disciplinary assessments, integrated services, and evidence-based programs, as required by this subchapter;

(2) Apply for, receive, and disburse federal, state, and local funds relating to the duties and responsibilities of the Commission;

(3) Utilize the funding provided pursuant to subchapter III-A of Chapter 13 of Title 4 [§ 4-1345.01 et seq.];

(4) Exercise personnel authority for all employees of the Commission, consistent with Chapter 6 of Title 1 [§ 1-601.01 et seq.]; and

(5) Exercise procurement authority, consistent with Unit A of Chapter 3 of Title 2 [§ 2-351.01 et seq.]; except, that the provisions of § 2-301.05(a), (b), (c), and (e) shall not apply.

(June 12, 2007, D.C. Law 17-9, § 504, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(c), 57 DCR 181.)

Effect of amendments. — D.C. Law 18-111, in subsec. (a), substituted “the Statewide Commission on Children, Youth, and their Families” for “an Interagency Collaboration and Services Integration Commission”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4061(c) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 4061(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

§ 2-1595. Duties.

(a) Within 90 days of the applicability of this subchapter, the Commission shall:

(1) Develop an information-sharing agreement that:

(A) Adheres to all applicable provisions of federal and District law and professional standards regarding confidentiality, including Commission procedures and protocols for safeguarding confidential and other child-related information;

(B) Uses a form created by the Commission for obtaining consent to assessment and disclosure of confidential information from a participant or the parent or legal guardian of the participant to education, law enforcement, and human service agencies; and

(C) Permits Commission personnel to collect information from agencies participating in the agreement to facilitate comprehensive multi-disciplinary assessments and the development and implementation of integrated service plans;

(2) Develop procedures and protocols for safeguarding confidential and other participant-related information, documents, files, electronic communications, and computer data, including:

(A) Procedures for determining when a fully informed and written

consent to assessment and disclosure of confidential information is provided by a participant or the parent or legal guardian of the participant; and

(B) The circumstances and manner in which confidential information collected and maintained by designated personnel of the Commission may be disclosed, as permitted by applicable provisions of local and federal law, to:

(i) Other personnel of the Commission for the exclusive purposes of conducting comprehensive, multi-disciplinary assessments of children or creating and implementing integrated service plans for children; and

(ii) Education, law enforcement, human service agencies, or other service providers identified in the disclosure consent for the exclusive purpose of creating and implementing integrated service plans; and

(3) Identify a comprehensive, multi-disciplinary assessment instrument that shall be used by school-based clinicians to:

(A) Determine the extent to which children are affected by risk and protective factors as individuals and as members of families, communities, and schools;

(B) Determine the extent to which children have service needs resulting from emotional disturbance, substance abuse, exposure to violence, or learning disabilities;

(C) Provide therapeutic interventions; and

(D) Assist in the development of integrated service plans;

(b)(1) All programs shall be evidence-based, age-appropriate, and implemented to serve children and their families and shall include:

(A) Early childhood psycho-social and emotional development assistance;

(B) School-based violence and substance abuse prevention;

(C) Social and emotional learning assistance;

(D) Family resiliency and strengthening assistance; and

(E) Services that are designed to reduce local reliance on out-of-home placement of children under the age of 18.

(2) The Commission shall determine the extent to which the District has preventive and early interventive evidence-based programs that already meet some or all of the requirements of paragraph (1) of this subsection and assist education, law enforcement, and human service agencies in the implementation of needed preventive and early interventive programs for children and their families.

(c) The Commission shall:

(1) Have authority over an interagency database housed in a secure location to store assessment information, data gathered pursuant to the information-sharing agreement described in subsection (a) of this section, and any other data relevant to service integration and the ongoing assessment of programs implemented or supported by the Commission;

(2) Conduct an annual independent evaluation of the effectiveness of the programs supported, facilitated, or overseen by the Commission, including:

(A) The impact on academic performance, levels of violence by and against children, truancy, and delinquency; and

(B) The cost effectiveness of the programs, taking into account such factors as reductions, or potential reductions, in out-of-home placements and

in law enforcement expenditures, and the extent to which the Commission's member agencies have developed the capacity to sustain the programs and activities;

(3)(A) Report, on an annual basis, within 90 days after the end of the fiscal year, to the Mayor and the Council on the status and progress of the efforts to meet the objectives of the Commission, including a description of activities, alignment with the statewide education and youth development framework and strategic plan, and the results of the evaluation required by paragraph (2) of this subsection and any recommendations made by the Commission to the public, the Mayor, or the Council;

(B) In calendar year 2012, the evaluation required by paragraph (2) of this subsection shall also be included in the assessment required by § 38-193(b);

(4) The Commission shall consult with the Office of the State Superintendent of Education to ensure that eligible families can access comprehensive and coordinated services for their children of pre-k age, as that term is defined in § 38-271.01(7).

(5) Develop goals and determine priorities for children, youth, and their families, based on established annual benchmarks and goals that are reported as part of the Deputy Mayor for Education's agency performance measures;

(6) Meet at least 4 times a year; and

(7) Make available on the Deputy Mayor for Education's website:

(A) An updated list and description of ongoing initiatives and subcommittees of the Commission;

(B) An agenda of topics to be discussed, along with all supporting documentation, which shall also be distributed to the members of the Commission at least 48 hours in advance of a Commission meeting, which includes:

(i) The relevant action steps;

(ii) An implementation status report; and

(iii) Any other data relevant to the Commission's meeting; and

(C) Within 2 weeks of each Commission meeting, the minutes of, and action steps determined at, the meeting.

(June 12, 2007, D.C. Law 17-9, § 505, 54 DCR 4102; July 18, 2008, D.C. Law 17-202, § 601, 55 DCR 6297; Mar. 3, 2010, D.C. Law 18-111, § 4061(d), 57 DCR 181.)

Effect of amendments. — D.C. Law 17-202, in subsec. (c), deleted "and" from the end of par. (2) and substituted "; and" for a period at the end of par. (3), and added par. (4).

D.C. Law 18-111, in subsec. (c)(3)(A), substituted "of the efforts to meet the objectives of the Commission, including a description of activities, alignment with the statewide education and youth development framework and strategic plan, and" for "of the objectives of the Commission, including"; in subsec. (c)(3)(B), deleted "and" from the end; and added subsecs. (c)(5), (6), (7).

Emergency legislation. — For temporary (90 day) amendment of section, see § 4061(d) of

Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 4061(d) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

Legislative history of Law 17-202. — Law 17-202 the "Pre-K Enhancement and Expansion Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-537 which was referred to the Committee of the Whole.

The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 23, 2008, it was assigned Act No. 17-399 and transmitted to

both Houses of Congress for its review. D.C. Law 17-202 became effective on July 18, 2008.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

§ 2-1596. Membership.

(a) The Commission shall include the:

- (1) Mayor, who shall serve as Chair;
- (2) Chairman of Council of the District of Columbia;
- (3) Chair of the Committee on Human Services;
- (4) Chief Judge, Family Court, Superior Court of the District of Columbia;
- (5) Deputy Mayor for Education;
- (6) City Administrator;
- (7) State Superintendent of Education;
- (8) Chancellor of the District of Columbia Public Schools;
- (9) Chair of the Public Charter School Board;
- (10) Director of the Department of Human Services;
- (11) Director of the Child and Family Services Agency;
- (12) Director of the Department of Youth Rehabilitation Services;
- (13) Director of the Department of Corrections;
- (14) Director of the Department of Health;
- (15) Director of the Department of Mental Health;
- (16) Chief of the Metropolitan Police Department;
- (17) Director of the Court Social Services Agency;
- (18) Attorney General for the District of Columbia;
- (19) Director of the Criminal Justice Coordinating Council;
- (20) Director of the Department of Parks and Recreation;
- (21) Director of the District of Columbia Public Library;
- (22) Executive Director of the Children and Youth Investment Trust

Corporation;

(23) President of the State Board of Education; and

(24) In consultation with youth service advocates and organizations throughout the community, 5 members from the community, appointed by the Mayor, in accordance with subsection (c) of this section.

(b) The Mayor, by order, may appoint additional members to the Commission, as necessary.

(c)(1) The members of the community appointed pursuant to subsection (a)(24) of this section shall include:

- (A) A local funder of youth service and development activities;
- (B) A representative of the early childhood education community;
- (C) A representative of the youth service provider community;
- (D) A representative from the post-secondary preparedness community;

and

(E) An expert on primary and secondary education policy.

(2) Members of the community appointed pursuant to subsection (a)(24) of this section may be rotated or changed based upon the agenda for each Commission meeting.

(June 12, 2007, D.C. Law 17-9, § 506, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(e), 57 DCR 181.)

Effect of amendments. — D.C. Law 18-111, in subsec. (a)(20), deleted “and” from the end; and added subsecs. (a)(22) to (24) and subsec. (c).

Emergency legislation. — For temporary (90 day) amendment of section, see § 4061(e) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 4061(e) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 2-218.50.

§ 2-1597. Administrative support.

The Commission may hire staff and obtain equipment, supplies, materials, and services necessary to carry out the functions of the Commission.

(June 12, 2007, D.C. Law 17-9, § 507, 54 DCR 4102.)

Legislative history of Law 17-9. — For Law 17-9, see notes following § 2-1591.

CHAPTER 16. PUBLIC DEFENDER SERVICE.

Sec.

- 2-1601. Redesignation of Legal Aid Agency as Public Defender Service.
- 2-1602. Persons who may be represented; appointment of private attorneys; determination of financial eligibility.
- 2-1603. Board of Trustees.
- 2-1604. Director and Deputy Director; appointment; duties; membership in bar required.

Sec.

- 2-1605. Employment of attorneys and other personnel; compensation; private practice by attorneys not permitted.
- 2-1606. Annual report and audit.
- 2-1607. Appropriation; public grants and private contributions.
- 2-1608. Transition provisions.

§ 2-1601. Redesignation of Legal Aid Agency as Public Defender Service.

The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereafter in this chapter referred to as the "Service").

(July 29, 1970, 84 Stat. 654, Pub. L. 91-358, title III, § 301.)

Prior Codifications. — 1981 Ed., § 1-2701. 1973 Ed., § 2-2221.

§ 2-1602. Persons who may be represented; appointment of private attorneys; determination of financial eligibility.

(a)(1) The Service is authorized to represent any person in the District of Columbia who is a person described in any of the following categories and who is financially unable to obtain adequate representation:

(A) Persons charged with an offense punishable by imprisonment for a term of 6 months, or more;

(B) Persons charged with violating a condition of probation or parole;

(C) Persons subject to proceedings pursuant to Chapter 5 of Title 21 (Hospitalization of the Mentally Ill);

(D) Persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. § 3411 et seq.) [repealed] or the provisions of Chapter 7, of Title 24;

(E) Juveniles alleged to be delinquent or in need of supervision;

(F) Persons subject to proceedings pursuant to § 24-607 (relating to commitment of chronic alcoholics by court order for treatment);

(G) Persons subject to proceedings pursuant to § 24-501 (relating to confinement of persons acquitted on the ground of insanity); or

(H) Persons incarcerated in District of Columbia corrections facilities, not including community residential facilities or community-based corrections facilities, in administrative matters related to their incarceration before any court or administrative body.

(2) The Service shall not represent an inmate in a suit for damages against the District of Columbia or its employees for conduct within the scope

of their employment, nor shall it represent an inmate in a suit in which the payment of attorney's fees or costs is sought against the District of Columbia or its employees for conduct within the scope of their employment. Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons who are annually determined to be financially unable to obtain adequate representation and who are persons described in the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons described in subsection (a) of this section, but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(July 29, 1970, 84 Stat. 654, Pub. L. 91-358, title III, § 302; Dec. 10, 1987, D.C. Law 7-52, § 2(a), (b), 34 DCR 6891.)

Cross references. — Children alleged to be delinquent or in need of supervision, see § 16-2301 et seq.

Criminal cases, indigent persons, representation, see § 11-2601 et seq.

Prior Codifications. — 1981 Ed., § 1-2702. 1973 Ed., § 2-2222.

Legislative history of Law 7-52. — Law

7-52 was introduced in Council and assigned Bill No. 7-173, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 14, 1987 and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-85 and transmitted to both Houses of Congress for its review.

CASE NOTES

ANALYSIS

In general.

Withdrawal of counsel.

In general.

Public Defender Service should be appointed to represent patient who has been involuntarily

detained on grounds that he has symptoms of mental illness and is likely to injure himself or others, at least until retained counsel notes his appearance. D.C. Code §§ 2-2222(a)(3), 21-524, 21-525, 21-543. In re Barnard, 455 F.2d 1370, 1971 U.S. App. LEXIS 6472 (C.A.D.C. 1971).

Public defender service and its director were

not liable to alleged client on respondeat superior theory for public defender's disclosure of allegedly confidential information to law enforcement authorities; the alleged client himself claimed that the public defender acted out of a motive to inflict revenge as disgruntled former lover, and nothing indicated that the public defender's communications with the authorities were animated in any way by a purpose to further the business of the public defender service. *Herbin v. Hoeffel*, 886 A.2d 507, 2005 D.C. App. LEXIS 623 (2005).

Patient's counsel must be provided with copy of affidavit of superintendent of hospital within 24 hours of involuntarily committed patient's return for reevaluation, to accord with statutory mandate that patients be afforded benefit of counsel. D.C. Code 1981, §§ 1-2702(a)(1)(C), 21-543; Mental Health Rule 11. In re *Richardson*, 481 A.2d 473, 1984 D.C. App. LEXIS 457 (1984).

Withdrawal of counsel.

If a real conflict of interest exists as to whether alleged ineffectiveness of a Public Defender Service trial attorney may have reached constitutional proportions the PDS may be permitted to withdraw as appellate counsel; how-

ever, the PDS is not entitled to carte blanche authority to withdraw from the appellate handling of a case which was tried by another of its attorneys simply by stating that "ethical considerations" are present; a prima facie case of constitutional ineffectiveness must exist before leave to withdraw is granted. *Angarano v. United States*, 329 A.2d 453, 1974 D.C. App. LEXIS 321 (1974).

An adequate specific showing that prima facie ineffectiveness exists is required before the District of Columbia Court of Appeals will grant the Public Defender Service leave to withdraw and appoint new counsel to determine whether to assert such an issue in the reviewing court or to seek collateral relief in the trial court. D.C. Code § 23-110. *Angarano v. United States*, 329 A.2d 453, 1974 D.C. App. LEXIS 321 (1974).

A limited preliminary disclosure to a motions division when the Public Defender Service seeks to withdraw as appellate counsel on ground that assertion of ineffective representation by the PDS member as trial counsel was ineffective does not prejudice a defendant's rights. *Angarano v. United States*, 329 A.2d 453, 1974 D.C. App. LEXIS 321 (1974).

§ 2-1603. Board of Trustees.

(a) The powers of the Service shall be vested in a Board of Trustees composed of 11 members. The Board of Trustees shall establish general policy for the Service but shall not direct the conduct of particular cases.

(b)(1) Members of the Board of Trustees shall be appointed by a panel consisting of:

(A) The Chief Judge of the United States District Court for the District of Columbia;

(B) The Chief Judge of the District of Columbia Court of Appeals;

(C) The Chief Judge of the Superior Court of the District of Columbia; and

(D) The Mayor of the District of Columbia.

(2) The panel shall be presided over by the Chief Judge of the District of Columbia Court of Appeals (or in his absence, the designee of such Judge). A quorum of the panel shall be 4 members.

(3) Four of the 11 members of the Board of Trustees shall be non-attorneys and shall be residents of the District of Columbia.

(4) Judges of the United States courts in the District of Columbia and of District of Columbia courts may not be appointed to serve as members of the Board of Trustees.

(5) The term of office of a member of the Board of Trustees shall be 3 years. No person shall serve more than 2 consecutive terms as a member of the Board of Trustees. A vacancy in the Board of Trustees shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy

occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the date of enactment of this chapter shall serve the unexpired portions of their terms as trustees of the Service.

(d) For the purposes of any action brought against the trustees of the Service, they shall be deemed to be employees of the District of Columbia.

(July 29, 1970, 84 Stat. 655, Pub. L. 91-358, title III, § 303; Mar. 6, 1979, D.C. Law 2-155, § 2, 25 DCR 6986; Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, § 17; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(a); Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(d).)

Prior Codifications. — 1981 Ed., § 1-2703. 1973 Ed., § 2-2223.

Legislative history of Law 2-155. — Law 2-155 was introduced in Council and assigned Bill No. 2-241, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 28, 1978, it was assigned Act. No. 2-322 and transmitted to both Houses of Congress for its review.

Editor's notes. — Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote (a), is repealed, effective October 21, 1998. Subsection (a) is set out above as it appeared prior to the enactment of § 11272.

Change in Government. — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-1604. Director and Deputy Director; appointment; duties; membership in bar required.

The Board of Trustees shall appoint a Director and Deputy Director of the Service, each of whom shall serve at the pleasure of the Board. The Director shall be responsible for the supervision of the work of the Service and shall perform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform such duties as he may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia.

(July 29, 1970, 84 Stat. 656, Pub. L. 91-358, title III, § 304; Mar. 3, 1979, D.C. Law 2-139, § 3205(cc), 25 DCR 5740; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(b); Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(d).)

Cross references. — Effective date of this section, see § 1-63

Prior Codifications. — 1981 Ed., § 1-2704. 1973 Ed., § 2-2224.

Legislative history of Law 2-139. — Law 2-139 was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on

October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Editor's notes. — Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote this section, is repealed, effective October 21,

1998. This section is set out above as it appeared prior to the enactment of § 11272.

§ 2-1605. Employment of attorneys and other personnel; compensation; private practice by attorneys not permitted.

(a) The Director shall employ a staff of attorneys and clerical and other personnel necessary to provide adequate and effective services. The Director shall make assignments of the personnel of the Service. The compensation of all employees of the Service, other than the Director and the Deputy Director, shall be fixed by the Director, but shall not exceed the compensation which may be paid to persons of similar qualifications and experience in the office of the United States Attorney for the District of Columbia. All attorneys employed by the Service to represent persons shall be members of the bar of the District of Columbia.

(b) No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

(c)(1) Employees of the Service shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of Title 5, United States Code: subchapter 1 of Chapter 81 (relating to compensation for work injuries), Chapter 83 (relating to retirement), Chapter 84 (relating to Federal Employees' Retirement System), Chapter 87 (relating to life insurance), and Chapter 89 (relating to health insurance).

(2) The Service shall make contributions under the provisions referred to in paragraph (1) of this subsection at the same rates applicable to agencies of the Federal Government.

(3) An individual who is an employee of the Service on the date of the enactment of this subsection may make, within 60 days after the issuance of regulations under paragraph (4) of this subsection, an election under § 8351 or 8432 of Title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

(4) This subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out this subsection.

(5) For purposes of vesting pursuant to § 1-626.10(b), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of implementation of this subsection shall include service performed thereafter for the Service.

(July 29, 1970, 84 Stat. 656, Pub. L. 91-358, title III, § 305; Mar. 3, 1979, D.C. Law 2-139, § 3205(cc), 25 DCR 5740; Dec. 10, 1987, D.C. Law 7-52, § 2(c), 34 DCR 6891; Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(e)(1).)

Cross references. — Administration, merit system, compensation, limits on compensation, inconsistent laws superceded, see § 1-611.16.

Effective date of this section, see § 1-636.02.

Prior Codifications. — 1981 Ed., § 1-2705. 1973 Ed., § 2-2225.

Legislative history of Law 2-139. — For legislative history of D.C. Law 2-139, see Historical and Statutory Notes following § 2-1604.

Legislative history of Law 7-52. — For legislative history of D.C. Law 7-52, see Historical and Statutory Notes following § 2-1604.

§ 2-1606. Annual report and audit.

(a) The Board of Trustees of the Service shall submit a fiscal year report of the Service's operations to the Congress of the United States, to the chief judges of the federal courts in the District of Columbia and of the District of Columbia courts, and to the Office of Management and Budget. The report shall include a statement of the financial condition of the Service and a summary of services performed during the year.

(b) The Board of Trustees shall annually arrange for an independent audit to be prepared by a certified public accountant or by a designee of the Office of Management and Budget.

(July 29, 1970, 84 Stat. 657, Pub. L. 91-358, title III, § 306; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(c); Oct. 21, 1998, 112 Stat. 2428, Pub. L. 105-274, § 7(d), (e)(2)(A).)

Prior Codifications. — 1981 Ed., § 1-2706.
1973 Ed., § 2-2226.

Editor's notes. — Section 11272 of Pub. L. 105-33; Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which had

amended this section, is repealed, effective October 21, 1998. This section is set out above as it would have appeared absent the enactment of § 11272.

§ 2-1607. Appropriation; public grants and private contributions.

(a) There are authorized to be appropriated to the Service in each fiscal years such funds as may be necessary to carry out this chapter. The Service may arrange by contract or otherwise for the disbursement of appropriated funds, procurement, and the provision of other administrative support functions by the General Services Administration or by other agencies or entities, not subject to the provisions of the District of Columbia Code or any law or regulation adopted by the District of Columbia Government concerning disbursement of funds, procurement, or other administrative support functions. The Service shall submit an annual appropriations request to the Office of Management and Budget.

(b) Upon approval of the Board of Trustees, the Service may accept public grants and private contributions made to assist it in carrying out the provisions of this chapter.

(c) The Service shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations act.

(d) During fiscal years 2006 through 2008, the Service may charge fees to cover the costs of materials distributed to attendees of educational events, including conferences, sponsored by the Service. Notwithstanding section 3302 of title 31, United States Code [31 U.S.C. § 3302], any amounts received as fees under this subsection shall be credited to the Service and available for use without further appropriation.

(July 29, 1970, 84 Stat. 657, Pub. L. 91-358, title III, § 307; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(d); Oct. 21, 1998, 112 Stat. 2428, Pub. L.

105-274, § 7(d), (e)(2)(B), (f); Oct. 16, 2006, 120 Stat. 2039, Pub. L. 109-356, § 301(b); Dec. 26, 2007, 121 Stat. 2042, Pub. L. 110-161, § 825(a).)

Prior Codifications. — 1981 Ed., § 1-2707. 1973 Ed., § 2-2227.

Effect of amendments. — Pub. L. 110-161, in subsec. (a), inserted the first sentence and deleted the former first two sentences which had read as follows: "There are authorized to be appropriated through the Court Services and Offender Supervision Agency for the District of Columbia (or, until such Agency assumes its duties pursuant to § 24-133(a), through the Trustee appointed pursuant to § 24-132) in each fiscal year such sums as may be necessary to carry out this chapter. Funds appropriated pursuant to this subsection shall be transmitted by the Agency (or, if applicable, by the Trustee) to the Service."

Effective date. — Section 825(c) of Pub. L. 110-161 provided that amendments made by this section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

Editor's notes. — Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote the section, is repealed October 21, 1998. This section is set out above as it would have appeared absent the enactment of § 11272.

Permitting general services administration to obtain space and services on behalf of District of Columbia public defender service: Section 103 of Pub. L. 109-356 provided:

"(a) Authority to obtain space and services.—At the request of the Director of the District of Columbia Public Defender Service, the Administrator of General Services may furnish space and services on behalf of the Service (either directly by providing space and services

in buildings owned or occupied by the Federal Government or indirectly by entering into leases with non-Federal entities) in the same manner, and under the same terms and conditions, as the Administrator may furnish space and services on behalf of an agency of the Federal Government.

"(b) Effective Date.—This section shall apply with respect to fiscal year 2006 and each succeeding fiscal year." Federal Payment to the District of Columbia Public Defender Service: Pub. L. 111-8, Div. D, Title IV, 123 Stat. 652, March 11, 2009, provided, in part: "For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$35,659,000, of which \$700,000 is to remain available until September 30, 2010: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies. Provided further, That for fiscal year 2009 and thereafter, the Public Defender Service is authorized to charge fees to cover costs of materials distributed and training provided to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding 31 U.S.C. 3302, such fees shall be credited to this account, to be available until expended without further appropriation."

§ 2-1608. Transition provisions.

All employees of the Legal Aid Agency for the District of Columbia on the date of enactment of this chapter shall be deemed to be employees of the Service and shall be entitled to the same compensation and benefits as they are entitled to as employees of the Legal Aid Agency for the District of Columbia.

(July 29, 1970, Pub. L. 91-358, title III, § 308.)

Cross references. — Education Licensure Commission, powers and duties, see § 38-1307.

Prior Codifications. — 1981 Ed., § 1-2708. 1973 Ed., § 2-2228.

CHAPTER 17. PUBLIC RECORDS MANAGEMENT.

Sec.

2-1701. Definitions.

2-1702. Establishment of District of Columbia Office of Public Records Management, Archival Administration, and Library of Governmental Information.

2-1703. Responsibilities and duties of Public Records Administrator.

2-1704. Reporting requirements.

2-1705. Records Disposition Committee.

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Sec.

2-1707. Confidentiality safeguarded.

2-1708. Copies, printouts, and photographs of public records.

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2-1711. Annual report.

2-1712. Funding.

2-1713. Civil enforcement.

2-1714. Applicability.

§ 2-1701. Definitions.

For the purposes of this chapter, the term:

(1) "Administrator" means the Public Records Administrator of the District of Columbia, established by § 2-1702(b).

(2) "Agency" means any board, commission, department, division, institution, authority, independent authority, or part thereof, of the District, except the entities listed in § 2-1714(b).

(3) "Archival quality" means a quality of photographic reproduction consistent with standards specified by the American National Standards Institute.

(4) "Archival record" means any non-current record of an organization or institution that is preserved permanently because of its continuing and enduring administrative, legal, fiscal, or historical value. For the purposes of this definition, the term:

(A) "Administrative value" means the usefulness of a record to the agency in which the record originated or to the succeeding agency for conducting current business.

(B) "Fiscal value" means any record necessary or useful to document and verify financial authorizations, obligations, or transactions.

(C) "Historical value" means a record that merits long-term preservation because the record contains significant information about the organization and function of government agencies, or unique information about persons, places, and subjects with which public agencies deal.

(D) "Legal value" means any record that documents the legal or civil rights of individuals or government agencies.

(5) "Committee" means the Records Disposition Committee established by § 2-1705.

(6) "Custodian" means the public official in charge of an office having public records.

(6A) "Digital" means in a format that is computer readable.

(7) "District" means the District of Columbia government.

(8) "Executive Office" means the Executive Office of the Mayor of the District of Columbia.

(9) "Inactive public record" means a public record which the agency which

created or received the record no longer needs to retain in its custody for the transaction of public business.

(10) "Microreproduction equipment" means photographic equipment designed to produce microimages of documents.

(11) "Nonrecord" means any library or other reference materials or records maintained solely for convenience or reference.

(12) "Office" means the District of Columbia Office of Public Records Management, Archival Administration, and Library of Governmental Information established by § 2-1702(a).

(13) "Public record" means any document, book, photographic image, electronic data recording, electronic mail, paper, video recording, sound recording, microfilm, computer disk, or other material, regardless of physical form or characteristic, that documents a transaction or activity made, received, or retained pursuant to law or in connection with the transaction of public business by or with any officer or employee of the District. The medium upon which such information is recorded shall have no bearing on the determination of whether the record is a public record.

(14) "Records disposition" means the removal by a District agency or other governmental unit of a record no longer necessary for the conduct of public business in accordance with records control schedules and removal methods and procedures approved by the Office.

(14A) "Records management officer" means any person whose responsibilities, according to § 2-1706, include the development and oversight of an agency's records management program.

(15) "Records retention schedule" means a document listing all records series of a given class, or originating in a particular agency, specifying records to be retained permanently and authorizing on a continuing basis the destruction of other series of records after a specified time period has elapsed.

(16) "Retention period" means the period of time for which a record must be retained.

(17) "Secretary" means the Secretary of the District of Columbia.

(Sept. 5, 1985, D.C. Law 6-19, § 2, 32 DCR 3590; Mar. 8, 1991, D.C. Law 8-235, § 2(a), 38 DCR 302; Oct. 17, 2002, D.C. Law 14-195, § 2(a), 49 DCR 7638; June 13, 2008, D.C. Law 17-175, § 2(a), 55 DCR 5387.)

Cross references. — Acts, resolutions, rules, and orders, codification and publication, see § 2-601 et seq.

Administrative procedure, legal publication, see § 2-551 et seq.

Administrator of District of Columbia Office of Documents, codification and publication of duties, see § 2-612.

Council acts and resolutions, enrollment and filing with Archives, see § 2-604.

Prior Codifications. — 1981 Ed., § 1-2901.

Effect of amendments. — D.C. Law 14-195 rewrote par. (2) which had read as follows: "(2) 'Agency' means any board, commission, department, division, institution, authority, or part

thereof, of the District, except the entities listed in § 2-1714(b)."

D.C. Law 17-175 rewrote par. (13), which had read as follows: "(13) 'Public record' means any document, book, photographic image, electronic data recording, paper, sound recording, or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of public business by any officer or employee of the District."

Legislative history of Law 6-19. — Law 6-19, the "District of Columbia Public Records Management Act of 1985," was introduced in Council and assigned Bill No. 6-139, which was referred to the Committee on Government Op-

erations. The Bill was adopted on first and second readings on May 14, 1985 and May 28, 1985, respectively. Signed by the Mayor on June 10, 1985, it was assigned Act No. 6-34 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-235. — Law 8-235 was introduced in Council and assigned Bill No. 8-559, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-318 and transmitted to both Houses of Congress for its review.

Legislative history of Law 14-195. — Law 14-195, the “Government Reports Electronic Publication Requirement Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-28, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 18, 2002, and July 2, 2002, respectively.

Signed by the Mayor on July 17, 2002, it was assigned Act No. 14-428 and transmitted to both Houses of Congress for its review. D.C. Law 14-195 became effective on October 17, 2002.

Legislative history of Law 17-175. — Law 17-175, the “Electronic Mail Public Record Clarification Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-490 which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on March 4, 2008, and April 1, 2008, respectively. Signed by the Mayor on April 22, 2008, it was assigned Act No. 17-359 and transmitted to both Houses of Congress for its review. D.C. Law 17-175 became effective on June 13, 2008.

Mayor's Orders. — District of Columbia Records Disposition Committee established: See Mayor's Order 85-173, October 21, 1985.

Editor's notes. — Section 3 of D.C. Law 14-195 provided that this act shall apply as of October 1, 2002.

§ 2-1702. Establishment of District of Columbia Office of Public Records Management, Archival Administration, and Library of Governmental Information.

(a) There is established the District of Columbia Office of Public Records Management, Archival Administration, and Library of Governmental Information within the Office of the Secretary.

(b) The head of the Office shall be the Public Records Administrator of the District of Columbia who shall be appointed by the Mayor. The Administrator shall be qualified by training and experience in records and archives management. Other staff shall be appointed as necessary.

(c) Subject to the approval of the Mayor, the Administrator is authorized to adopt, alter, and use a seal which shall establish the authenticity or true copy of any public record in the Administrator's custody. A true copy shall then have the same force and effect as the original.

(d) Repealed.

(e) The Mayor shall issue rules and regulations to implement the provisions of this chapter pursuant to subchapter I of Chapter 5 of this title. The Mayor shall submit the proposed rules and regulations to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules and regulations, by resolution, within the 45-day period, the proposed rules and regulations shall be deemed approved.

(Sept. 5, 1985, D.C. Law 6-19, § 3, 32 DCR 3590; Mar. 8, 1991, D.C. Law 8-235, § 2(b), 38 DCR 302; June 13, 2008, D.C. Law 17-175, § 2(b), 55 DCR 5387.)

Section references. — This section is referred to in § 2-1701.

Prior Codifications. — 1981 Ed., § 1-2902.

Effect of amendments. — D.C. Law 17-175, in subsec. (e), added the second and third sentences.

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 8-235. — For legislative history of D.C. Law 8-235, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 17-175. — For Law 17-175, see notes following § 2-1701.

Editor's notes. — Office of Public Records Management, Archival Administration, and Library of Government Information established: See Mayor's Order 86-28, February 11, 1986.

§ 2-1703. Responsibilities and duties of Public Records Administrator.

(a)(1) The Administrator shall act as the chief records manager for the District and shall, except as otherwise provided by law:

(A) Organize and administer a records center for the District's semicurrent and inactive records;

(B) Implement rules for effective and economical records management; and

(C) Perform other functions to implement this chapter or the rules issued pursuant to this chapter.

(2) The Administrator shall establish the standards for the number, selection, qualifications, basic and advance training, certification, and recertification of agency records management officers.

(3) The Administrator shall, as the historian of the District, establish a program for the identification and preservation of documentation of significance to the history of the District.

(4) The Administrator may:

(A) Publish or republish any material of historical interest;

(B) Compile, edit, and print any publication of historical interest;

(C) Subject to the approval of the Mayor, enter into agreements with publishers to produce books on District history; or

(D) Sell publications, reproductions, or replicas, postcards, and historical souvenirs at any location administered by the Office of Public Records.

(5) The Administrator, with a goal of economy through disposal of original paper records, shall establish standards for the storage of records by a photographic, microphotographic, or non-erasable optical process. A certified or authenticated reproduction of a photograph, microphotographic non-erasable optical disk, or enlargement of a record made in compliance with this chapter shall be considered equal to the original when admitted as evidence.

(b) The Administrator shall establish and maintain the official archives of the District of Columbia, implement regulations for the preservation and use of archival records, and perform other functions to implement this chapter or the regulations issued pursuant to this chapter.

(c) The Administrator shall establish and maintain a Library of Governmental Information of the District of Columbia which shall serve as an effective source reference and research information with respect to the business of the District; develop programs and establish standards for the management of services provided under this section; and perform the other

functions to implement this chapter or the regulations issued pursuant to this chapter.

(d)(1) The Administrator shall collect, compile, and maintain data and information pertaining to the operation of the District as well as other municipalities, governmental bodies, and public authorities, and arrange for the exchange, sale, purchase, and loan of informational materials from and with legislative and research services, libraries, and institutions in other municipalities, governmental bodies, and public authorities.

(2) The Administrator shall accept, compile, and maintain every public record or document requested to be preserved by:

(A) The Council of the District of Columbia;

(B) The Board of Education; and

(C) The District of Columbia Court of Appeals and the Superior Court of the District of Columbia.

(Sept. 5, 1985, D.C. Law 6-19, § 4, 32 DCR 3590; Mar. 8, 1991, D.C. Law 8-235, § 2(c), 38 DCR 302.)

Prior Codifications. — 1981 Ed., § 1-2903.

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 8-235. — For legislative history of D.C. Law 8-235, see Historical and Statutory Notes following § 2-1701.

§ 2-1704. Reporting requirements.

(a) Except as provided in subsection (c) of this section, each agency shall transmit to the Library of Governmental Information at least 2 copies of each report, study, or publication prepared by the agency or independent contractor immediately after they have been issued. At least one copy of each report, study, or publication shall be made available to the public at the Library of Governmental Information.

(b) The Mayor shall make available to the public an electronic version of the list, by category, of the documents transmitted under subsection (a) of this section through the Internet, no later than 30 days from the date of the transmission from the agency.

(c) The provisions of subsection (a) and (b) of this section shall not apply to drafts or unofficial copies of accounting, auditing, or financial reports, studies, or publications.

(Sept. 5, 1985, D.C. Law 6-19, § 5, 32 DCR 3590; Mar. 8, 1991, D.C. Law 8-235, § 2(d), 38 DCR 302; Oct. 17, 2002, D.C. Law 14-195, § 2(b), 49 DCR 7638.)

Prior Codifications. — 1981 Ed., § 1-2904.

Effect of amendments. — D.C. Law 14-195 rewrote the section which had read as follows:

“(a) Except as provided in subsection (b) of this section, the head of each agency shall transmit to the Library of Governmental Information at least 2 copies of each report, study, or publication of the agency and those prepared by independent contractors, immediately after they have been issued. At least 1 copy of each

report, study, or publication of the District or agency shall be available at the Library of Governmental Information at all times.

“(b) The provisions of subsection (a) of this section shall not apply to drafts or unofficial copies of accounting, auditing, or financial reports, studies, or publications.”

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 8-235. — For legislative history of D.C. Law 8-235, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 14-195. — For Law 14-195, see notes following § 2-1701.

Editor's notes. — Section 3 of D.C. Law 14-195 provided that this act shall apply as of October 1, 2002.

§ 2-1705. Records Disposition Committee.

(a) There is established a Records Disposition Committee ("Committee") consisting of the following:

(1) A chairperson, the State Historic Records Coordinator, appointed by the Mayor;

(2) The following ex officio members or their designees:

(A) The City Administrator/Deputy Mayor for Operations;

(B) The Secretary of the District of Columbia;

(C) The Secretary to the Council;

(D) The Director of Public Libraries;

(E) The Deputy Mayor for Finance;

(F) The Corporation Counsel;

(G) The Inspector General;

(H) The District of Columbia Auditor;

(I) The Superintendent of Schools; and

(J) The Chief Judge of the District of Columbia Court of Appeals; and

(3) The Public Records Administrator shall serve as the secretary of the Committee.

(b) The Committee shall convene when called by the chairperson or by any 3 members to:

(1) Review and act upon a records retention schedule submitted for consideration by the Administrator;

(2) Review and act upon requests for exceptions from the records retention schedule for disposal authority;

(3) Accept for the archives nonpublic records of historic significance on the recommendation of the Administrator; and

(4) Consider and resolve policy and other matters affecting the District records disposition program.

(c) The concurrence of the Administrator shall be necessary for the destruction of any public record.

(Sept. 5, 1985, D.C. Law 6-19, § 6, 32 DCR 3590; Mar. 8, 1991, D.C. Law 8-235, § 2(e), 38 DCR 302.)

Section references. — This section is referred to in § 2-1701.

Prior Codifications. — 1981 Ed., § 1-2905.

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 8-235. — For legislative history of D.C. Law 8-235, see Historical and Statutory Notes following § 2-1701.

§ 2-1706. Maintenance of public records.

(a)(1) Any record created or received by the District in the course of official

business is the property of the District and, except as provided in paragraph (2) of this subsection, shall not be destroyed, sold, transferred, or disposed of in any manner.

(2)(A) A record may be destroyed, sold, transferred, or disposed of as prescribed by law, by records retention schedules, or by other authorization approved by the Committee; provided, that an authorization approved by the Committee shall not be effective until 45 days after its publication in the District of Columbia Register.

(B) Any records retention schedule or procedure which is in effect on September 5, 1985, shall remain in effect until it is amended or repealed pursuant to this chapter.

(a-1) No electronic mail shall be deleted or destroyed until new rules and regulations for the retention of electronic mail are submitted to and approved by the Council pursuant to § 2-1702(e). Such rules and regulations shall be submitted within 60 days of June 13, 2008.

(b) It shall be the responsibility of each agency to develop:

(1) Records containing adequate documentation of its organization, functions, policies, decisions, procedures, and essential transactions; and

(2) A continuing program for the economical and efficient management of its records in compliance with the instructions and directives issued by the Administrator with respect to the organization, retention, disposal, storage, photographing, and microphotographing of its records.

(c) An employee at each agency shall be designated as the records management officer of the agency, who shall develop and carry out the records management program of the agency and provide liaison with the Administrator.

(d) Any inactive public record of the District which is deemed to have continuing historical or other significance shall be transferred to the District of Columbia Archives to be properly preserved, arranged, described, and made available for reference purposes.

(Sept. 5, 1985, D.C. Law 6-19, § 7, 32 DCR 3590; Apr. 12, 2000, D.C. Law 13-91, § 131, 47 DCR 520; June 13, 2008, D.C. Law 17-175, § 2(c), 55 DCR 5387.)

Section references. — This section is referred to in § 2-1701.

Prior Codifications. — 1981 Ed., § 1-2906.

Effect of amendments. — D.C. Law 13-91, in par. (2) of subsec. (b), deleted “pursuant to § 1-2902(d) 1981 Ed.,” preceding “with respect to”.

D.C. Law 17-175, in subsec. (a)(2)(A), inserted “; provided, that an authorization approved by the Committee shall not be effective until 45 days after its publication in the District of Columbia Register”; and added subsec. (a-1).

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

Legislative history of Law 13-91. — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Legislative history of Law 17-175. — For Law 17-175, see notes following § 2-1701.

§ 2-1707. Confidentiality safeguarded.

(a) Any public record made confidential by law shall be so treated.

(b) No provision of this chapter shall be construed to authorize or require the opening of any records ordered to be sealed by a court.

(Sept. 5, 1985, D.C. Law 6-19, § 8, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2907. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1708. Copies, printouts, and photographs of public records.

Whenever a person has the right to inspect any public record subject to the requirements of this chapter, the person shall be furnished a copy, printout, or photograph of the record for a reasonable fee.

(Sept. 5, 1985, D.C. Law 6-19, § 9, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2908. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1709. Disposition of public records at end of official's term.

(a) On or before the expiration of the term of office of an elected or appointed official, all public records, books, writings, and letters in the custody of the official shall be promptly transmitted or relinquished to the official's successor or, if there is none, to the Administrator.

(b) Any official who maliciously destroys, defaces, or removes any public record, as defined by this chapter, shall be subject to the penalties established in section 14.

(Sept. 5, 1985, D.C. Law 6-19, § 10, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2909. **References in text.** — "Section 14", referred to at the end of subsection (b), is § 14 of D.C. Law 6-19.
Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

§ 2-1710. Right of examination of public records.

(a) The Administrator shall from time to time review the condition of public records, and shall give advice and assistance to officials in the solution of problems of preserving, cataloging, filing, and making readily available for governmental and public use the records in their custody.

(b) Upon request by the Administrator, each custodian shall prepare an inclusive inventory of all public records in his or her custody.

(Sept. 5, 1985, D.C. Law 6-19, § 11, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2910. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1711. Annual report.

(a) The Office shall submit an annual report covering the preceding fiscal year to the Mayor by January 1st.

(b) A copy of the annual report shall be sent to each member of the Council and placed in each branch of the public library.

(Sept. 5, 1985, D.C. Law 6-19, § 12, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2911. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1712. Funding.

All projected expenditures required for the administration of this chapter shall be included as a part of the annual budget submitted for the operation of the Office of the Secretary.

(Sept. 5, 1985, D.C. Law 6-19, § 13, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2912. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1713. Civil enforcement.

The Corporation Counsel is authorized to initiate a civil action in the Superior Court of the District of Columbia or any court of competent jurisdiction to protect the interests of the District of Columbia in any public record.

(Sept. 5, 1985, D.C. Law 6-19, § 15, 32 DCR 3590.)

Prior Codifications. — 1981 Ed., § 1-2913. legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.
Legislative history of Law 6-19. — For

§ 2-1714. Applicability.

(a) The requirements and provisions of this chapter shall apply to and be binding upon the executive branch, the operating departments and agencies, including independent agencies of the District, Advisory Neighborhood Commissions, the Board of Elections and Ethics, the Zoning Commission, the Armory Board, the Public Service Commission, and the boards, commissions, and task forces whose memberships are appointed by the Mayor.

(b) The requirements and provisions of this chapter shall not be binding upon:

- (1) The Council of the District of Columbia;
- (2) The Board of Education;
- (3) The District of Columbia Court of Appeals and the Superior Court of the District of Columbia; and
- (4) The regional and national bodies in which the District participates as a member.

(Sept. 5, 1985, D.C. Law 6-19, § 16, 32 DCR 3590.)

Cross references. — Alcoholic beverage control, fines and penalties, see § 25-831.

Alcoholic beverage control, transportation, operation by intoxicated persons, fines and penalties, see § 25-1009.

Asbestos licensing and control, fines and penalties, civil infractions, see § 8-111.10.

Automobile consumer protection, used motor vehicles, damage and defect disclosure, fines and penalties, see § 50-505.

Barbed-wire fences, fines and penalties, see § 9-1213.04.

Board of health ordinances, fines and penalties, see § 7-176.

Bonding of home improvement businesses, penalties for violations, see § 47-2883.04.

Bonding of home improvement businesses, prosecutions, see § 47-2883.05.

Boxing and wrestling commission, violations of commission rules, penalties, see § 3-608.

Building regulations, flood hazards, fines and penalties, damages, see § 6-506.

Building regulations, flood hazards, smoke detectors, fines and penalties, see § 6-751.09.

Business corporations, entities conducting prosecution and civil actions, adjudication, see § 29-101.149.

Business corporations, failure to open books for inspection, fines and penalties, see § 29-201.28.

Business corporations, operation after revocation, fines and penalties, see § 29-101.124.

Business corporations, registered offices and agents, failure to maintain, fines and penalties, see § 29-101.129.

Business corporations, stockholders, books; fines and penalties, see § 29-201.27.

Business corporations, violations of Chapter 1 of Title 29, fines and penalties, see § 29-101.131.

Charitable solicitations, penalties and prosecutions, see § 44-1712.

Child development facilities, regulations, criminal and civil penalties, see § 7-2046.

Cigarette tax, failure to pay, penalties and sanctions, see § 47-2422.

Clinical laboratories, licenses, suspension or revocation, fines and penalties, injunctions, see § 44-212.

Commercial transactions, consumer protections, administrative enforcement, see § 28-3815.

Condominiums, registration and offering, fines and penalties, see § 42-1904.17.

Construction codes, fines and penalties, see § 6-1406.

Controlled substances, regulations of manufacture, distribution and dispensing, fines and penalties, see § 48-903.09.

Cooperative associations, false reports, fines and penalties, see § 29-939.

Cooperative associations, funds, restrictions, fines and penalties, see § 29-938.

Cooperative associations, reports, false statements, fines and penalties, see § 29-934.

Cooperative associations, use of term "cooperative," fines and penalties, see § 29-937.

Cooperative associations, violations of rules or regulations, fines and penalties, see § 29-942.01.

Corporate documents, signatures, misstatements, fines and penalties, see § 29-101.151.

Domestic stock insurance companies, fines, penalties and fees, see § 31-603.

Drainage of lots, fines and penalties, neglect, see § 8-203.

Drug manufacture and distribution, licensure, fines and penalties, see § 48-712.

Elevators, regulation of construction, repair and operation; fines and penalties, see § 1-303.44.

Employment services licensing and regulation, fines and penalties, see § 32-414.

False "closing-out sales," penalties and prosecutions, see § 47-2106.

Fire, casualty, and marine insurance, fines and penalties, adjudication of infractions, see § 31-2502.42.

Fire, casualty and marine insurance, fines and penalties, see § 31-2502.03.

Food and drugs, adulteration, criminal sanctions, fines and penalties, see § 48-109.

Foreign corporations, appointment of agents, adjudication of infractions, see § 29-101.99.

Funeral directors, penalties, see § 3-417.

Garbage, fines and penalties, unlawful disposal of combustible refuse, see § 8-708.

Hazardous waste management, fines and penalties, see § 8-1311.

Health, accident and life insurance companies or associations, fines and penalties, see § 31-5202.

Health occupations, penalties, alternative sanctions, see § 3-1210.09.

Health-care and community residence facilities, hospice and home care agencies; licensure, fines and penalties, see § 44-509.

Health-care and community residence facilities, penalties for unauthorized release of criminal information, see § 44-553.

Hearing aid dealers and consumers, certificates of registration, grounds for revocation and suspension, see § 28-4006.

Historic landmark and historic district protection, crimes and offenses, fines and penalties, see § 6-1110.

Horse-drawn carriage trade, regulations, fines and penalties, see § 8-2012.

Human tissue banks, penalties and prosecutions, see § 7-1541.04.

Insanitary buildings, condemnation, fines and penalties, see § 6-916.

Inspections, steam boilers, fines and penalties, see § 2-114.

Inspections, plumbers and gas fitters, licensing, fines and penalties, see § 2-135.

Institutions of learning, licenses and permits, conferring of degrees, fines and penalties, see § 29-619.

Insurance, holding companies, fines and penalties, infractions, willful violations, alternative sanctions, see § 31-710.

Insurance, violations of Chapters 42 through 47 of Title 31, fines and penalties, see § 31-4601.

Insurance companies, engaging in business without authorization, penalties and fines, see § 47-2604.

Lead-based paint, abatement and control, fines and penalties, civil infractions, see § 8-115.13.

License law, auctioneers, temporary licenses, failure to account, penalties, see § 47-2808.

License law, specific provisions, fines and penalties, see § 47-2846.

Licensure, clean hands requirement, prohibition against issuance of licenses, see § 47-2862.

Licensure, non-health related occupations and professions, fines and penalties, civil alternatives, see § 47-2853.29.

Life and fire insurance, reinsurance reserves, licenses, fines and penalties, see § 31-5201.

Limited liability companies, carrying on business after issuance of proclamation, see § 29-1068.

Lottery and charitable games control board; forged, counterfeit or altered tickets, see § 3-1333.

Mattresses, violations of law, fines and penalties, see § 8-505.

Money lenders, licenses, criminal sanctions, fines and penalties, see § 26-907.

Money transmissions, fines and penalties, see § 26-1021.

Motor vehicles, installment sales, fines and penalties, see § 50-607.

Natural disaster consumer protection, fines and penalties, see § 28-4103.

Nonprofit corporations, corporate instruments, misstatements, fines and penalties, see § 29-301.109.

Nonprofit corporations, foreign corporations, failure to procure certificates of authority, fines and penalties, see § 29-301.82.

Nonprofit corporations, operations after revocation, fines and penalties, see § 29-301.87.

Outdoor signs, licenses and fees, see § 1-303.22.

Outdoor signs, publication of regulations, fines and penalties, see § 1-303.23.

Pawnbrokers, penalties for violation, see § 47-2884.16.

Pharmacies, penalties and prosecutions, see § 47-2885.20.

Phosphate cleaners, restrictions, fines and penalties, criminal violations, see § 8-107.04.

Placement of children in family homes, fines and penalties, see § 4-1408.

Prescription drug price information, enforcement, liability, fines and penalties, see § 48-804.01.

Privies, fines and penalties, see § 8-604.

Professional corporations, fines and penalties, see § 29-420.

Professional engineers, unlawful acts, see § 47-2886.14.

Public auction permits, prosecutions, see § 47-2707.

Radon contractor proficiency, fines and penalties, see § 28-4203.

Real property settlements, penalties, see § 42-2407.

Rental housing, fines and penalties, see § 42-3509.01.

Rental housing conversion and sale, certificate or registration revocation, see § 42-3405.07.

Rental housing conversion and sale, statute and rule enforcements, fines and penalties, see § 42-3405.06.

Rental of airspace, rules and regulations, fines and penalties, see § 10-1121.10.

Retail service stations, notice of violations, fines and penalties, see § 36-302.05.

Security and fire alarm systems, regulations, fines and penalties, see § 7-2811.

Unauthorized bingo games, raffles, and Monte Carlo night parties, aiding or abetting, penalties, see § 3-1332.

Underground storage tank management, notice of violations, remedies for noncompliance, see § 8-113.09.

Uniform Limited Partnership Act of 1987, fines and penalties, see § 33-211.03.

Unsafe structures, fines and penalties, tax assessments, see § 6-805.

Unsafe structures, occupancy, fines and penalties, see § 6-808.

Veterinarians, penalties, see § 3-515.

Water pollution control, fines and penalties, see § 8-103.16.

Weeds, duty of removal, fines and penalties, see § 8-301.

Weights and measures, fines and penalties, see § 37-201.32.

Youth residential facilities licensures, enforcement and penalties, see § 7-2108.

Zoning and height of buildings, permits, certificates of occupancy, fines and penalties, see § 6-641.09.

Civil infractions, appeals, costs, see § 2-1803.02.

Consumer credit service organizations, penalties, see § 28-4607.

Consumer protection agency, see § 28-3902.

Dangerous dogs, penalties for infractions, see §§ 8-1906 and 8-2204.

False representation of age, providing to minors, see § 25-1002.

Health services planning, see § 44-416.

Interstate family support, modification of child support order of another state, jurisdiction, see § 46-306.13.

Long-term care ombudsman program, see § 7-704.01.

Natural disaster consumer protection, see § 28-4103.

Solid waste management and recycling, see § 8-1060.

Tobacco smoking, infractions, fines and penalties, see § 7-1706.

Prior Codifications. — 1981 Ed., § 1-2914.

Temporary Amendment of Section. — Section 4 of D.C. Law 17-16, in subsec. (a), substituted “Public Service Commission, the National Capital Revitalization Corporation, the Anacostia Waterfront Corporation,” for “Public Service Commission.”

Section 6(b) of D.C. Law 17-16 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4 of National Capital Revitalization Corporation and Anacostia Waterfront Corporation Freedom of Information Emergency Amendment Act of 2007 (D.C. Act 17-29, April 19, 2007, 54 DCR 4077).

Legislative history of Law 6-19. — For legislative history of D.C. Law 6-19, see Historical and Statutory Notes following § 2-1701.

CHAPTER 18. ADMINISTRATIVE REVIEW OF CIVIL INFRACTIONS.

*Subchapter I. Purposes; Definitions;
Administrative Law Judges and
Attorney Examiners; Sanctions;
Regulations*

Sec.

2-1801.01. Purpose.

2-1801.02. Definitions.

2-1801.03. Administrative law judges and attorney examiners.

2-1801.04. Monetary sanctions.

2-1801.05. Regulations.

2-1801.06. Summary action.

Subchapter II. Procedures

Sec.

2-1802.01. Notice of infraction.

2-1802.02. Answer.

2-1802.03. Hearing.

2-1802.04. Final decision.

2-1802.05. Service.

Subchapter III. Administrative Review

2-1803.01. Jurisdiction to hear appeal.

2-1803.02. Right to administrative appeal and costs of appeal.

2-1803.03. Scope of review.

*Subchapter I. Purposes; Definitions; Administrative Law
Judges and Attorney Examiners;
Sanctions; Regulations.*

§ 2-1801.01. Purpose.

It is the purpose of the Council of the District of Columbia in the adoption of this chapter to provide for the imposition of alternative civil sanctions for infractions of laws and regulations amended by title IV [of D.C. Law 6-42], and to provide for a uniform and expeditious system of administrative adjudication with respect to the infractions.

(Oct. 5, 1985, D.C. Law 6-42, § 101, 32 DCR 4450.)

Section references. — This section is referred to in §§ 7-2046 and 47-2829.

Prior Codifications. — 1981 Ed., § 6-2701.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

References in text. — “Title IV,” referred to in this section, is title IV of D.C. Law 6-42.

Delegation of Authority. — Delegation of authority pursuant to Law 6-42, see Mayor’s Order 86-38, March 4, 1986.

Delegation of authority pursuant to D.C. Law 6-42, the “Department of Consumer and Regu-

latory Affairs Civil Infractions Act of 1985,” see Mayor’s Order 99-68, April 28, 1999 (46 DCR 4234).

Delegation of Authority Pursuant to DC Law 6-100, the “Litter Control Administration Act of 1985,” DC Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” DC Law 5-165, the “DC Air Pollution Control Act of 1984,” DC Law 13-172, the “Rodent Control Act of 2000,” and DC Law 6-126, the “Construction Codes Approval and Amendments Act of 1986,” see Mayor’s Order 2002-5, February 1, 2002 (49 DCR 911).

Mayor’s Orders. — D.C. Board of Appeals and Review established: See Mayor’s Order 86-50, March 31, 1986.

Editor’s notes. — Establishment of District of Columbia Board of Appeals and Review: See Mayor’s Order 86-50, March 31, 1986.

Establishment of District of Columbia Board of Appeals and Review: See Mayor’s Order 96-27, March 5, 1996 (43 DCR 1367).

CASE NOTES

ANALYSIS

Construction and application.
In general.

Construction and application.

Authority of the rental administrator and the Rental Housing Commission to enforce administrative laws and impose civil fines was not implicitly repealed by the Civil Infractions Act, which authorized the Department of Consumer and Regulatory Affairs to enforce the regulations and impose fines; Civil Infractions Act merely provided for supplemental authority to

enforce the Rental Housing Act. *Bernstein Mgmt. Corp. v. D.C. Rental Hous. Comm'n*, 952 A.2d 190, 2008 D.C. App. LEXIS 298 (2008).

In general.

Department of Consumer and Regulatory Affairs has jurisdiction to impose civil fines in lieu of criminal penalties for violations of regulation requiring licenses for mechanical amusement machines. *D.C. Code* 1981, §§ 6-2701 to 6-2723, 47-2846. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

§ 2-1801.02. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(1A) "Final order" means an order of an administrative law judge or attorney examiner that disposes of a case and that has not been appealed within 15 calendar days after the order has been served on the respondent.

(1B) "Health occupation" means any occupation or profession identified in § 3-1201.02, for which a license is required or for which there is an exemption from licensing.

(2) "Infraction" means any act or failure to act for which a civil sanction may be imposed under the provisions of this chapter, and with respect to which either the Corporation Counsel or the United States Attorney for the District of Columbia is authorized to commence a criminal proceeding in the Superior Court of the District of Columbia, or for which another civil sanction may be imposed under any District laws or regulations.

(2A) "Licensee" means any person:

(A) Licensed under Chapter 28 of Title 47; or

(B) Who engages in an activity that requires licensure under Chapter 28 of Title 47 who has not obtained the appropriate license or whose license has lapsed, has been suspended, or has been revoked.

(3) "Mayor" means the Mayor of the District of Columbia.

(4) "Person" means corporations, firms, agencies, companies, associations, organizations, partnerships, societies, and joint stock companies, as well as individuals.

(5) "Respondent" means any person charged with an infraction as defined in paragraph (2) of this section.

(Oct., 1985, D.C. Law 6-42, § 102, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(a), 38 DCR 314; Apr. 27, 2001, D.C. Law 13-281, § 105(a), 48 DCR 1888; Apr. 4, 2006, D.C. Law 16-81, § 2(a), 53 DCR 1050; Mar. 2, 2007, D.C. Law 16-191, § 124, 53 DCR 6794.)

Prior Codifications. — 1981 Ed., § 6-2702.

Effect of amendments. — D.C. Law 13-281 added par. (1-A).

D.C. Law 16-81 added pars. (1B) and (2A).

D.C. Law 16-191, in par. (2A), validated previously made technical corrections.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 13-281. — Law 13-281, the “Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-646, which was referred to the Committee on Consumer Affairs and Regulatory Affairs. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 22, 2001, it was assigned Act

No. 13-646 and transmitted to Both Houses of Congress for its review. D.C. Law 13-281 became effective on April 27, 2001.

Legislative history of Law 16-81. — Law 16-81, the “Nuisance Abatement Reform Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-80 which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-267 and transmitted to both Houses of Congress for its review. D.C. Law 16-81 became effective on April 4, 2006.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

§ 2-1801.03. Administrative law judges and attorney examiners.

(a) Except as provided in Chapter 18A of this title, the Mayor shall appoint 1 or more attorneys to serve as administrative law judges or attorney examiners to implement the provisions of this chapter.

(b) Administrative law judges or attorney examiners shall have the following powers:

- (1) Presiding over hearings in contested matters under this chapter;
- (2) Compelling the attendance of witnesses by subpoena, administering oaths, taking the testimony of witnesses under oath, and dismissing, rehearing, and continuing cases;
- (3) Imposing sanctions for infractions under subchapter II of this chapter, including monetary fines, penalties, and hearing and inspection costs;
- (4) Suspending permits or licenses for the purpose of enforcing the payment of monetary fines, penalties, or hearing and inspection costs;
- (5) Permitting the payment of monetary fines, penalties, and hearing and inspection costs in excess of \$50 in monthly installments over a period not greater than 6 months and allowing a fee of 1% per month of the outstanding amount owed by a respondent for the installment service;
- (6) Suspending all or part of any fine or penalty imposed on grounds of past compliance or past good faith attempts to comply with applicable laws and regulations, or upon condition that the respondent correct the infraction by a date certain; and

(7) Sealing the premises where the conduct occurred which is the basis of the citation to enforce orders requiring the payment of monetary fines, penalties, or hearing and inspection costs.

(c) Each licensing or permitting authority or successor entity established by the laws and regulations amended by title IV may delegate to administrative law judges or attorney examiners, who are appointed pursuant to this section or pursuant to Chapter 18A of this title [§ 2-1831.01 et seq.], the authority to conduct hearings pursuant to the laws and regulations and to recommend appropriate action, including denial, suspension, or revocation of any permit or license, to the licensing or permitting authority.

(d) Prior to assuming any duties or responsibilities pursuant to this chapter, administrative law judges or attorney examiners shall have completed an orientation or training course established by the Mayor or the Chief Administrative Law Judge of the Office of Administrative Hearings for the purpose of familiarizing themselves with relevant rules, procedures, and substantive law.

(e) Administrative law judges and attorney examiners appointed pursuant to this section, or pursuant to Chapter 18A of this title [§ 2-1831.01 et seq.], may hear cases pursuant to Chapter 39 of Title 28.

(Oct. 5, 1985, D.C. Law 6-42, § 103, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(b), 38 DCR 314; Apr. 18, 1996, D.C. Law 11-110, § 14, 43 DCR 530; Apr. 13, 2005, D.C. Law 15-354, § 9(a), 52 DCR 2638.)

Section references. — This section is referred to in § 28-3902.

Prior Codifications. — 1981 Ed., § 6-2703.

Effect of amendments. — D.C. Law 15-354, in subsec. (a), substituted “Except as provided in this chapter, the” for “The”; in subsec. (c), substituted “section or pursuant to this chapter,” for “section,”; in subsec. (d), substituted “Mayor or the Chief Administrative Law Judge of the Office of Administrative Hearings” for “Mayor”; and, in subsec. (e), substituted “section or pursuant to this chapter,” for “section”.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see His-

torical and Statutory Notes following § 2-1801.06.

Legislative history of Law 11-110. — Law 11-110, the “Technical Amendments of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

References in text. — “Title IV,” referred to in (c), is title IV of D.C. Law 6-42.

§ 2-1801.04. Monetary sanctions.

(a)(1) The Mayor shall prepare and periodically amend a schedule of fines. The schedule of fines shall be submitted to the Council of the District of Columbia (“Council”) for its approval or disapproval, in whole or in part, by resolution. The schedule of fines and subsequent amendments shall not become effective until approved by the Council, or 30 days after submission if the Council has not disapproved the schedule or amendments.

(2) In addition to the civil fine, a respondent who fails to answer a notice of infraction within the time specified by § 2-1802.02(e) may be assessed a penalty equal to twice the amount of the civil fine for the infraction set forth in the notice.

(b) In addition to any civil fines and penalties imposed following the adjudication of an infraction adverse to a respondent, an administrative law judge or attorney examiner may, in accordance with rules issued by the Mayor, impose upon the respondent, by order, the costs to the District of any additional inspections before, during, or after the hearing, and other costs associated with the hearing.

(Oct. 5, 1985, D.C. Law 6-42, § 104, 32 DCR 4450; May 10, 1989, D.C. Law 7-231, § 21, 36 DCR 492; Mar. 8, 1991, D.C. Law 8-237, § 2(c), 38 DCR 314; Sept. 24, 2010, D.C. Law 18-223, § 2072(a), 57 DCR 6242.)

Section references. — This section is referred to in §§ 2-1802.02, 2-1802.03, and 44-509.

Prior Codifications. — 1981 Ed., § 6-2704.

Effect of amendments. — D.C. Law 18-223, in par. (a)(1), substituted “30 days” for “60 days”; and rewrote par. (a)(2), which had read as follows: “(2) In addition to the civil fine, the following penalties may be imposed: (A) A respondent who fails to answer a notice of infraction within the time specified by § 2-1802.02(e) may be assessed a penalty equal to the amount of the civil fine for the infraction set forth in the notice. (B) A respondent who fails to answer a notice of infraction within the time specified by § 2-1802.02(f) may be assessed a penalty equal to twice the amount of the civil fine for the infraction set forth in the notice.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2072(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 7-231. — Law 7-231, the “Technical Amendments Act of 1988,”

was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title: Section 2061 of D.C. Law 18-223 provided that subtitle G of title II of the act may be cited as the “Department of Consumer and Regulatory Affairs Civil Infractions Amendment Act of 2010”.

Resolutions. — Resolution 15-618, the “Civil Infractions Schedule of Fines Amendment for Towing Services for Motor Vehicles Regulations Approval

Resolution of 2004”, was approved effective July 13, 2004.

Resolution 16-153, the “Civil Infractions Schedule of Fines Amendment Approval Resolution of 2005”, was approved effective May 1,

CASE NOTES

ANALYSIS

In general.
Jurisdiction.
Review.

In general.

Administrative law judge’s (ALJ) error in citing statute pursuant to which fine was imposed for unlicensed mechanical amusement machines did not deprive store owner of notice of charge, where store owner acknowledged during argument that it had been aware charged wrong actually concerned violation under particular regulation. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Regulation section defining violation of any provision of statute or rule cited elsewhere in the section requiring periodic renewal of license as class III infraction did not apply to violation of differently numbered section not listed on civil fine schedule, even though that other section was promulgated pursuant to General Licensure Law and provisions of that statute are cited throughout the referenced section. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Department of Consumer and Regulatory Affairs has authority to include violation of sec-

tion requiring licenses for mechanical amusement machines among classes of regulatory violations subject to civil fines. *D.C. Code 1981, § 47-2846. F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Although Department of Consumer and Regulatory Affairs has authority to include violation of regulation requiring licenses for mechanical amusement machines among classes of regulatory violations subject to civil fine, where Department had not done so using required formal procedures, Department could not impose fine on ad hoc basis, without adequate notice. *D.C. Code 1981, § 47-2846. F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Jurisdiction.

Department of Consumer and Regulatory Affairs Civil Infractions Act gives Department jurisdiction over rules and regulations issued under authority of General Licensure Law. *D.C. Code 1981, §§ 6-2701 to 6-2723, 47-2846. F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Department of Consumer and Regulatory Affairs has jurisdiction to impose civil fines in lieu of criminal penalties for violations of regulation

requiring licenses for mechanical amusement machines. D.C. Code 1981, §§ 6-2701 to 6-2723, 47-2846. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Store owner fined for unlicensed mechanical amusement machines could not be deemed to have waived claim that regulation provided only for criminal penalties, proceeding in which fine was imposed was civil, and Board of Appeals and Review had no authority to use criminal penalty provision as basis for civil fine, by failing to raise the argument before administrative law judge (ALJ) and Board; the argument pertained to subject matter jurisdiction, which was subject to review at any time. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Review.

Appellate review procedures adopted in Civil

Infractions Act of 1985 applied, with respect to zoning regulations, only if Department of Consumer and Regulatory Affairs (DCRA) sought to impose a civil fine, and thus, the Act's appellate review procedures did not apply to review, by Board of Zoning Adjustment (BZA), of DCRA's revocation of certificate of occupancy to use premises as automobile service center. *Kuri Bros. v. District of Columbia Bd. of Zoning Adjustment*, 891 A.2d 241, 2006 D.C. App. LEXIS 24 (2006).

On appeal from decision of the Board of Appeals and Review sustaining administrative law judge's (ALJ) imposition of civil fine for unlicensed mechanical amusement machines, but reducing amount of fine, Court of Appeals is limited to factual record before ALJ, as Board limits its review to record before ALJ. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

§ 2-1801.05. Regulations.

The Mayor may issue rules and regulations necessary to carry out the purposes of this chapter.

(Oct. 5, 1985, D.C. Law 6-42, § 105, 32 DCR 4450.)

Prior Codifications. — 1981 Ed., § 6-2705.
Legislative history of Law 6-42. — For

legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

§ 2-1801.06. Summary action.

(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health or safety of the residents of the District, the Mayor may order the sealing of the premises upon which the respondent is engaged in the unlawful conduct, provided that the premises are primarily used for the unlawful activity. Engaging in or attempting to engage in a health occupation without a license shall be a per se imminent danger to the health or safety of the residents of the District unless the person engaging in or attempting to engage in the health occupation is exempt from licensure pursuant to § 3-1201.03.

(b) At the time of the sealing of the premises, the Mayor shall provide the licensee with written notice stating the action being taken, the basis for the action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the sealing of the premises. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of

fact and conclusions of law to each party to a case or to each party's attorney of record.

(e) Any person aggrieved by a final summary action may seek judicial review in accordance with subchapter I of Chapter 5 of this title.

(Oct. 5, 1985, D.C. Law 6-42, § 106, as added Mar. 8, 1991, D.C. Law 8-237, § 2(d), 38 DCR 314; Apr. 4, 2006, D.C. Law 16-81, § 2(b), 53 DCR 1050.)

Cross references. — Civil infractions, appeals, costs, see § 2-1803.02.

Consumer credit service organizations, penalties, see § 28-4607.

Interstate family support, modification of child support order of another state, jurisdiction, see § 46-306.13.

Prior Codifications. — 1981 Ed., § 6-2706.

Effect of amendments. — D.C. Law 16-81, in subsec. (a), added the second sentence.

Legislative history of Law 8-237. — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985

Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Legislative history of Law 16-81. — For Law 16-81, see notes following § 2-1801.02.

Subchapter II. Procedures.

§ 2-1802.01. Notice of infraction.

(a) In order to initiate a proceeding under subchapter I of this chapter and this subchapter, the Mayor shall serve a notice of infraction upon a respondent. The Mayor shall retain a copy of the notice of infraction, which shall bear a certification attesting to the matters set forth in the notice.

(b) The Mayor shall prepare the notice of infraction, which shall contain:

- (1) The name and address of the respondent;
- (2) A citation of the law or regulation alleged to have been violated;
- (3) The nature, time, and place of the infraction;
- (4) Where appropriate, the date by which the respondent must comply to avoid incurring a fine or penalty;
- (5) The amount of the fine applicable to the infraction;
- (6) The manner, place, and time in which the fine and penalties, if any, may be paid;
- (7) Notice that failure to pay monetary sanctions may result in suspension of respondent's permit or license;
- (8) Notice that failure to answer the notice of infraction within 15 days after the date of service, or other period which the Mayor may establish by rule, shall result in a penalty equal to twice the amount of the civil fine for the infraction set forth in the notice; and
- (9) Notice of the respondent's right to request a hearing with respect to the infraction, and the procedure for requesting a hearing.

(c) If an administrative law judge or attorney examiner determines that a notice of infraction is defective on its face, the administrative law judge or attorney examiner shall enter an order dismissing the notice of infraction and shall promptly notify the respondent.

(Oct. 5, 1985, D.C. Law 6-42, § 201, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(e), (f), 38 DCR 314; Sept. 24, 2010, D.C. Law 18-223, § 2072(b), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 6-2711.

Effect of amendments. — D.C. Law 18-223 rewrote par. (b)(8), which had read as follows: (8) Notice that failure to answer the notice of infraction within 15 calendar days from the date of service, or other period which the Mayor may establish by rule or regulation, may result in penalties, and the amount of those penalties; and“.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2072(b) of Fiscal Year 2011 Budget Support Emergency

Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

CASE NOTES

In general.

Owner of public hall received sufficient notice of administrative hearing at which second default was entered against owner as to alleged infraction for operating public hall after certificate and license from Department of Consumer and Regulatory Affairs (DCRA) had expired; before hearing at which earlier default was entered, owner received notice containing

time, date, and location of that hearing and stating owner's rights at hearing, and order vacating the earlier default contained time, date, and location of new hearing at which second default was entered and contained signed certificate of service. *Felicity's, Inc. v. D.C. Dep't of Consumer & Regulatory Affairs*, 817 A.2d 825, 2003 D.C. App. LEXIS 83 (2003).

§ 2-1802.02. Answer.

(a) In answer to a notice of infraction a respondent may:

(1) Admit the infraction;

(2) Admit the infraction with an explanation which the hearing examiner may take into account in the imposition of a sanction for the infraction; or

(3) Deny commission of the infraction.

(b) A respondent who responds to a notice of infraction but fails to indicate whether the respondent admits, admits with explanation, or denies the infraction shall be considered to have admitted the infraction if the respondent pays the appropriate fine and penalties, and shall otherwise be considered to have denied the infraction.

(c) A respondent may answer the notice of infraction by mail or in person.

(d) A respondent admitting an infraction shall, at the time the respondent submits an answer, pay the applicable civil fine established pursuant to § 2-1801.04(a)(1), and any applicable penalties pursuant to § 2-1801.04(a)(2).

(e) A respondent shall answer a notice of infraction within 15 calendar days of the date the notice of infraction was served, or within any other time period the Mayor may establish by rule or regulation.

(f) If a respondent has been served a notice of infraction and fails, without good cause, to answer within the time period established in subsection (e) of this section, the respondent shall be liable for the penalty established pursuant to § 2-1801.04(a)(2).

(g) No notice of infraction issued pursuant to subchapter I of this chapter and this subchapter shall abridge or abrogate any time periods established by

the laws and regulations amended by title IV [of D.C. Law 6-42] regarding cure of an infraction.

(Oct. 5, 1985, D.C. Law 6-42, § 202, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(h), 38 DCR 314; Sept. 24, 2010, D.C. Law 18-223, § 2072(c), 57 DCR 6242.)

Section references. — This section is referred to in § 2-1801.04.

Prior Codifications. — 1981 Ed., § 6-2712.

Effect of amendments. — D.C. Law 18-223 rewrote subsec. (f), which had read as follows: “(f) If a respondent has been served a notice of infraction and fails, without good cause, to answer within the time period established in subsection (e) of this section, the respondent shall be liable for the penalty established pursuant to § 2-1801.04(a)(2)(A). The Mayor shall then serve a second notice of infraction upon the respondent. If the respondent fails to answer the second notice of infraction within 15 calendar days of service, or within any other time period the Mayor may establish by rule or regulation, the respondent shall be liable for the penalty established pursuant to § 2-1801.04(a)(2)(B).”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2072(c) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

References in text. — “Title IV,” referred to in (g), is title IV of D.C. Law 6-42.

§ 2-1802.03. Hearing.

(a) The administrative law judge or attorney examiner shall conduct a hearing on a notice of infraction in accordance with Chapter 5 of this title, except as otherwise provided by this chapter. The Mayor shall bear the burden of establishing an infraction by a preponderance of the evidence.

(b) If a respondent fails, without good cause, to appear at a hearing of which the respondent has been served a notice, the administrative law judge or attorney examiner may proceed with the hearing and enter a final order in the case.

(c) After due consideration of the evidence and arguments, the administrative law judge or attorney examiner shall determine whether the Mayor has established the infraction. Where the Mayor has not established the infraction, the administrative law judge or attorney examiner shall enter an order dismissing the notice of infraction. Where the Mayor has established the infraction, the administrative law judge or attorney examiner shall enter an appropriate written order, which shall set forth findings of fact, conclusions of law, and a sanction.

(d) An order entered pursuant to this section is civil in nature.

(e) Upon a finding that the respondent has committed the infraction, the administrative law judge or attorney examiner may order the respondent to pay a civil fine and, where appropriate, penalties pursuant to § 2-1801.04(a)(2) and costs pursuant to § 2-1801.04(b).

(f) The administrative law judge or attorney examiner may suspend any permit or license which authorizes the respondent to engage in the activity to which the infraction relates if the respondent fails to pay any fines, penalties,

and costs, with interest thereon, in accordance with the administrative law judge's or attorney examiner's order. Suspension of the permit or license shall continue until the respondent complies with the administrative law judge's or attorney examiner's order.

(g) Upon request of the respondent, the administrative law judge or attorney examiner may stay the imposition of any sanction imposed pending administrative review.

(h) The Mayor may cause to be entered any final order requiring a respondent to pay fines, penalties, or costs as a judgement against the respondent in the Civil Actions Branch of the Civil Division of the Superior Court of the District of Columbia. The Mayor may enforce the judgment in the same manner as any other civil judgment may be enforced under District law.

(i)(1) The amount to be paid under a final order shall be a continuing and perpetual lien in favor of the District upon all property, whether real or personal, belonging to the respondent and shall have the same force and effect as a lien created by judgment. Interest shall accrue thereon at the rate of one and ½% per month, or part thereof, from the date of the order or default final order.

(2) The lien shall attach to all property belonging to the respondent at any time during the period of the lien, including any property acquired by the respondent after the lien arises.

(3) The lien shall have priority over all other liens, except liens for District taxes and District water charges. The lien shall be satisfied by payment of the amount of the lien to the agency that issued the final order; provided, that the lien shall not be valid as against a bona fide purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice by filing in the Recorder of Deeds.

(4) For reasonable cause shown, the Mayor may abate the amount of the final order.

(5) The Mayor may contract with any person to collect the amount of the lien and remunerate the person by fee, by a percentage of the amount collected, or both.

(6) Notwithstanding the foregoing, if the lien has been converted to a real property tax lien under § 47-1340, the real property tax lien shall be enforced under Chapter 13A of Title 47.

(j) The Mayor may enforce payment of the fines, penalties, costs, and interest imposed against the real property of the respondent as follows:

(1) The agency that issued the notice of infraction shall record a real property tax lien, captioned "Notice of Converted Real Property Tax Lien", with the Recorder of Deeds stating the name of the respondent, describing the real property against which the real property tax lien attaches by square and lot number, and specifying the amount of the real property tax lien. The real property tax lien shall be deemed a delinquent real property tax from the date of the conversion, shall accrue interest at the rate of interest charged for delinquent real property tax, and shall be perpetual. Subject to § 47-1340(f), payment thereof shall be credited to the General Fund of the District of Columbia. The real property may be sold at the next tax sale, regardless of the

date of the conversion, in the same manner, under the same conditions, and subject to the same impositions of interest, costs, expenses, fees, and other charges, as real property sold for delinquent real property tax.

(2) The aggregate amount of the fines, penalties, costs, and interest secured by the lien imposed under subsection (i) of this section may appear on a real property tax bill, and such aggregate amount shall (A) be deemed an additional real property tax to be collected in the same manner and under the same conditions as real property tax is collected, including the sale of the real property for delinquent tax; (B) be credited to the General Fund of the District of Columbia; and (C) be subject to the same penalty and interest provisions as delinquent real property tax is subject as of the date of such real property tax bill. The lien under subsection (i) of this section, with penalty and interest as provided under this section, shall be converted to real property tax as of the due date for payment of the real property tax bill if payment is not made.

(Oct. 5, 1985, D.C. Law 6-42, § 203, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(i), 38 DCR 314; Apr. 27, 2001, D.C. Law 13-281, § 105(b), 48 DCR 1888; Apr. 13, 2005, D.C. Law 15-354, § 9(b), 52 DCR 2638.)

Section references. — This section is referred to in § 42-3131.14.

Prior Codifications. — 1981 Ed., § 6-2713.

Effect of amendments. — D.C. Law 13-281, in subsec. (f), substituted “any fines, penalties, and costs, with interest thereon,” for “any fines, penalties, or costs”; amended subsec. (i); and added subsec. (j).

D.C. Law 15-354, in par. (1) of subsec. (j), substituted “notice of infraction” for “final order”.

Legislative history of Law 6-42. — For

legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 13-281. — For D.C. Law 13-281, see notes following § 2-1801.02.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

§ 2-1802.04. Final decision.

(a) Except as provided in Chapter 18A of this title, the order of the administrative law judge or attorney examiner shall become final 15 calendar days after service of the order upon the respondent, unless within that time the party files an administrative appeal pursuant to subchapter III of this chapter.

(b) The Mayor may prepare a list of delinquent respondents who have not paid or appealed, within 15 days of service, fines, penalties, costs, and interests resulting from final orders, and may periodically publish the list in one or more general circulation newspapers published in the District of Columbia.

(Oct. 5, 1985, D.C. Law 6-42, § 204, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(j), 38 DCR 314; Apr. 27, 2001, D.C. Law 13-281, § 105(c), 48 DCR 1888; Apr. 13, 2005, D.C. Law 15-354, § 9(c), 52 DCR 2638.)

Prior Codifications. — 1981 Ed., § 6-2714.

Effect of amendments. — D.C. Law 13-281 rewrote subsec. (b) which had read:

“(b) The Mayor may prepare a listing of delinquent respondents who have not paid or appealed within 15 days of service, fines, penalties, or costs resulting from final decisions

issued by attorney examiners and may periodically publish such a list in one or more general circulation newspapers published in the District of Columbia.”

D.C. Law 15-354, in subsec. (a), substituted “Except as provided in § 2-1831.03(f), the” for “The”.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 13-281. — For D.C. Law 13-281, see notes following § 2-1801.02.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

§ 2-1802.05. Service.

Any notice or order served upon a respondent or other person pursuant to this chapter may be personally served, electronically served, delivered to the respondent's or other person's last known home or business address and left with a person of suitable age and discretion residing or employed therein, or mailed to the respondent or other person by first class mail to the respondent's last known home or business address. When service is by mail, 5 additional days shall be added to the time period within which the respondent or other person may, or is required to, take any action specified in the notice or order.

(Oct. 5, 1985, D.C. Law 6-42, § 205, 32 DCR 4450; Sept. 24, 2010, D.C. Law 18-223, § 2052, 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 6-2715.

Effect of amendments. — D.C. Law 18-223 substituted “personally served, electronically served,” for “personally served.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2052 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 6-2701.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 2-218.76.

Short title. — Short title: Section 2051 of D.C. Law 18-223 provided that subtitle E of title II of the act may be cited as the “Electronic Service of Notice Amendment Act of 2010”.

Subchapter III. Administrative Review.

§ 2-1803.01. Jurisdiction to hear appeal.

Except as provided in § 2-1831.16, the District of Columbia Board of Appeals and Review shall entertain and determine appeals timely filed by persons aggrieved by orders issued by hearing examiners pursuant to this chapter or by the Mayor, except that appeals involving infractions of subchapter I of Chapter 6 of Title 6, or the District of Columbia Zoning Regulations shall be entertained and determined by the District of Columbia Board of Zoning Adjustment; appeals involving infractions of Chapter 1 of Title 25, or of any regulation issued under the authority of that chapter shall be entertained and determined by the District of Columbia Alcoholic Beverage Control Board; appeals involving infractions of laws governing occupations and professions or of regulations issued under the authority of those laws shall be entertained and determined by the appropriate occupational or professional board or commission; and appeals involving infractions of Chapter 35 of Title 42, or of any regulation issued under the authority of that chapter shall be entertained and determined by the District of Columbia Rental Housing Commission.

(Oct. 5, 1985, D.C. Law 6-42, § 301, 32 DCR 4450; Mar. 8, 1991, D.C. Law

8-237, § 2(k), 38 DCR 314; Mar. 6, 2002, D.C. Law 14-76, § 23(b)(1), 48 DCR 11442.)

Section references. — This section is referred to in § 2-1803.02.

Prior Codifications. — 1981 Ed., § 6-2721.

Effect of amendments. — D.C. Law 14-76 substituted “Except as provided in § 2-1831.16, the” for “The” in the first sentence.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 14-76. — Law 14-76, the “Office of Administrative Hearings Establishment Act of 2001”, was introduced in

Council and assigned Bill No. 14-208, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-196 and transmitted to both Houses of Congress for its review. D.C. Law 14-76 became effective on March 6, 2002.

References in text. — Title 25, referred to in this section, was amended and enacted by D.C. Law 13-298, effective May 3, 2001. Chapter 1 of former Title 25 embraced all sections in that title. For current provisions of Title 25, see § 25-101 et seq.

CASE NOTES

In general.

Board of Zoning Adjustment, rather than Board of Appeals and Review (BAR), had jurisdiction over appeal of fines of property owner, who rented home to college students without obtaining a certificate of occupancy; applicable regulations were part of the Zoning Regulations of the District of Columbia. *Walsh v. D.C. Bd. of Appeals & Review*, 826 A.2d 375, 2003 D.C. App. LEXIS 414 (2003).

Property owner was entitled to have its improper appeal to Board of Appeals and Review as to Department of Consumer and Regulatory

Affairs’ (DCRA) imposition of fines for violations of zoning regulations regarding parking dismissed without prejudice to having the appeal heard by Board of Zoning Adjustment (BZA), which was the proper body for hearing the appeal; administrative law judge’s (ALJ) order imposing fines advised property owner to appeal to Board of Appeals and Review, and property owner should not be penalized or forfeit its rights for following course of action specified in ALJ’s order. *Felicity’s, Inc. v. D.C. Dep’t of Consumer & Regulatory Affairs*, 817 A.2d 825, 2003 D.C. App. LEXIS 83 (2003).

§ 2-1803.02. Right to administrative appeal and costs of appeal.

Except as provided in § 2-1831.16, any person aggrieved by an order of an administrative law judge or attorney examiner issued pursuant to subchapters I and II of this chapter, or the Mayor, may appeal to the reviewing agency specified in § 2-1803.01. The costs of any appeal, including, but not limited to, the expense of providing a transcript of the hearing, shall be borne by the appellant unless excused by the Mayor pursuant to rules issued by the Mayor.

(Oct. 5, 1985, D.C. Law 6-42, § 302, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(l), 38 DCR 314; Mar. 6, 2002, D.C. Law 14-76, § 23(b)(2), 48 DCR 11442.)

Prior Codifications. — 1981 Ed., § 6-2722.

Effect of amendments. — D.C. Law 14-76 substituted “Except as provided in § 2-1831.16, any” for “Any” in the first sentence.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1803.01.

§ 2-1803.03. Scope of review.

The reviewing agency shall make a determination of each appeal on the basis of the record established before the administrative law judge or attorney examiner. The reviewing agency shall set aside any administrative law judge or attorney examiner order that is without observance of procedure required by law or regulations, including any applicable procedure required by subchapters I and II of this chapter, or any administrative law judge or attorney examiner order that is unsupported by a preponderance of the evidence on the record. The reviewing agency shall apply the rule of harmless error, and shall have power to affirm, reverse, or modify the order of the administrative law judge or attorney examiner. The reviewing agency may remand a case for further proceedings before the administrative law judge or attorney examiner. A reviewing agency may not modify a monetary sanction imposed by an administrative law judge or attorney examiner if that sanction is within the limits established by law or regulation.

(Oct. 5, 1985, D.C. Law 6-42, § 303, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(m), 38 DCR 314.)

Prior Codifications. — 1981 Ed., § 6-2723.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 2-1801.01.

Legislative history of Law 8-237. — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 2-1801.06.

CHAPTER 18A. OFFICE OF ADMINISTRATIVE HEARINGS.

Sec.	Sec.
2-1831.01. Definitions.	2-1831.11. Rules governing appointment, reappointment, and discipline of Administrative Law Judges.
2-1831.02. Establishment of Office of Administrative Hearings.	2-1831.12. Executive Director and other personnel.
2-1831.03. Jurisdiction of the Office and agency authority to review cases.	2-1831.13. Interaction of the Office with other agencies; other procedural matters.
2-1831.04. Chief Administrative Law Judge.	2-1831.14. Representation of parties in adjudicated cases before the Office.
2-1831.05. Powers and duties of the Chief Administrative Law Judge.	2-1831.15. Conflicts of regulations.
2-1831.06. Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings.	2-1831.16. Judicial review and administrative appeals.
2-1831.07. Commission members.	2-1831.17. Advisory Committee.
2-1831.08. Administrative Law Judges.	2-1831.18. Study of and report on Bureau of Traffic Adjudication.
2-1831.09. Powers, duties, and liability of Administrative Law Judges.	2-1831.19. [Repealed].
2-1831.10. Reappointment and discipline of Administrative Law Judges.	

§ 2-1831.01. Definitions.

For the purposes of this chapter, the term:

(1) “Adjudicated case” means a contested case or other administrative adjudicative proceeding before the Mayor or any agency that results in a final disposition by order and in which the legal rights, duties, or privileges of specific parties are required by any law or constitutional provision to be determined after an adjudicative hearing of any type. The term “adjudicated case” includes, without limitation, any required administrative adjudicative proceeding arising from a charge by an agency that a person committed an offense or infraction that is civil in nature.

(2) “Administrative Law Judge,” unless otherwise specified, means an Administrative Law Judge of the Office of Administrative Hearings.

(3) “Administrative Procedure Act” means the District of Columbia Administrative Procedure Act (§ 2-501 et seq.).

(4) “Agency” shall have the meaning provided that term in § 2-502(3).

(5) “Commission” means the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings.

(6) “Contested case” shall have the meaning provided that term in § 2-502(8).

(7) “Fiscal year” means the period from October 1 through September 30 of the following year.

(8) “Hearing officer” means an individual, other than an agency director, whose permanent duties as an employee of the District of Columbia on the day prior to this chapter becoming applicable to his or her agency consisted in whole or in substantial part of regularly adjudicating administrative matters as required by law. The term “hearing officer” includes, without limitation, any person with a position bearing the title “Hearing Officer,” “Hearing Examiner,” “Attorney Examiner,” “Administrative Law Judge,” “Administrative Judge,” or “Adjudication Specialist”. Notwithstanding anything to the contrary in this

paragraph, the term “hearing officer” does not include any employee holding an intermittent service, a temporary appointment of less than one year, or a term appointment of less than one year. The Mayor or the Commission may issue rules in accordance with § 2-1831.11 to adjust the period of employee tenure required to qualify as a hearing officer, except that such rules may not require a period longer than one year prior to this act becoming applicable to an employee’s agency.

(9) “Independent agency” shall have the meaning provided that term in § 2-502(5).

(10) “Interlocutory order” means any decision of an Administrative Law Judge in a matter other than an order as defined in this chapter.

(11) “Office” means the Office of Administrative Hearings as established by this chapter, and, unless otherwise stated, includes its Chief Administrative Law Judge and its Administrative Law Judges.

(12) “Order” shall have the meaning provided that term in § 2-502(11).

(13) “Party” shall have the meaning provided that term in § 2-502(10).

(14) “Person” includes individuals, partnerships, corporations, associations, and public or private organizations and entities of any character other than the Mayor, the Council, the courts, or an agency.

(Mar. 6, 2002, D.C. Law 14-76, § 4, 48 DCR 11442.)

Legislative history of Law 14-76. — Law 14-76, the “Office of Administrative Hearings Establishment Act of 2001”, was introduced in Council and assigned Bill No. 14-208, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second read-

ings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-196 and transmitted to both Houses of Congress for its review. D.C. Law 14-76 became effective on March 6, 2002.

CASE NOTES

Cross-examination.

Process afforded candidate for reappointment as administrative law judge (ALJ) need not include the right to examine or cross-examine every person who gave any information, favorable or unfavorable, to the Commission on Selection and Tenure of Administrative Law

Judges of the Office of Administrative Hearings or any of its members with respect to the candidate’s performance in office or fitness for reappointment. *Pearson v. District of Columbia*, 644 F.Supp.2d 23, 2009 U.S. Dist. LEXIS 63556 (2009), affirmed by 377 Fed. Appx. 34, 2010 U.S. App. LEXIS 11055 (D.C. Cir. 2010).

§ 2-1831.02. Establishment of Office of Administrative Hearings.

(a) The District of Columbia Office of Administrative Hearings is established as an independent agency within the executive branch of the District of Columbia government in the form and manner prescribed by this chapter. The Office shall be responsible for the administrative adjudication of all cases to which this chapter applies.

(b) The Office shall commence operations on the day that begins the first pay period after 180 days following Council confirmation of the individual who will serve as the first Chief Administrative Law Judge of the Office. On or after March 6, 2002, the Mayor may issue an executive order appointing an acting Chief Administrative Law Judge, pending his or her confirmation, and may

authorize him or her to plan for the implementation of this chapter, including the commencement of operations of the Office.

(c)(1)(A) If the Office begins operations after October 1, 2003, the Chief Financial Officer shall make intra-district transfers, on a quarterly basis, to the Department of Health, the Department of Human Services, the Board of Appeals and Review, the Child and Family Services Agency, and the Department of Motor Vehicles for the continuing costs of their adjudication functions during Fiscal Year 2004. The intra-district transfer shall be calculated as a pro rata share of the funds and full-time equivalent positions that each agency, respectively, transferred to the Office for its Fiscal Year 2004 baseline budget prepared by the Office of the Chief Financial Officer. Any amount so transferred shall remain a portion of the Office's baseline budget for any succeeding fiscal year.

(B) In calculating any pro rata share for the Board of Appeals and Review, the Chief Financial Officer shall exclude from consideration any period that occurs, in whole or in part, during the first quarter of Fiscal Year 2004. The Chief Financial Officer shall also make an intra-district transfer to the Office's budget of any unused funds in the Fiscal Year 2004 budget of the Board of Appeals and Review, as of the date that the Office commences operations in accordance with subsection (b) of this section.

(2) Repealed.

(3) All funding and full-time equivalent position authority associated with the administrative adjudication functions of any agency to which this unit becomes applicable on October 1, 2004, shall be transferred from that agency on or before the date that this unit becomes applicable to that agency.

(4) All property associated with the administrative adjudication functions of any agency to which this act becomes applicable shall be transferred to the Office on or before the date that this chapter becomes applicable to that agency.

(d) Any hearing officer in an agency covered by this chapter shall be subject to all rights, privileges, and requirements of this chapter, but his or her position and related costs shall continue to be funded by his or her originating agency until personnel authority, property, records, and unexpended balances of appropriations, revenues, and other funds associated with an agency's carrying out the functions assigned to the Office under authority of this chapter are lawfully transferred to the Office.

(e) The Office shall be subject to Unit A of Chapter 3 of Title 2, subchapter IX-A of Chapter 2 of Title 2, Chapter 14 of Title 1, and Chapter 10 of Title 10.

(Mar. 6, 2002, D.C. Law 14-76, § 5, 48 DCR 11442; Nov. 13, 2003, D.C. Law 15-39, § 402(a), 50 DCR 5668; Sept. 8, 2004, D.C. Law 15-177, § 2(a), 51 DCR 5709; Mar. 2, 2007, D.C. Law 16-191, § 16, 53 DCR 6794.)

Effect of amendments. — D.C. Law 15-39, in subsec. (b), substituted “the day that begins the first pay period after 180 days following Council confirmation of the individual who will serve as the first Chief Administrative Law Judge of the Office” for “October 1, 2003”; and rewrote subsec. (c) which had read as follows: “(c) All funding, property, and full-time equivalent

position authority associated with the administrative adjudication functions of the agencies to which this chapter becomes applicable by October 1, 2003 shall be transferred from those agencies to the Office by that date. All funding, property, and full-time equivalent position authority associated with the administrative adjudication functions of any agency to

which this chapter becomes applicable after October 1, 2003 shall be transferred from that agency to the Office on or before the date that this chapter becomes applicable to that agency.”

D.C. Law 15-177 repealed par. (2) of subsec. (c) which had read:

“(2) If the Office begins operation after October 1, 2003, the Chief Financial Officer shall make an intra-district transfer, from the D.C. Public Schools to the Office, of the pro rata share of the \$1,866,000 budgeted for adjudication of cases related to special education. The Chief Financial Officer shall calculate the pro rata share as a percentage of funds equal to the percentage of pay periods in fiscal year 2004 during which the Office has the responsibility of hearing special education cases.”

D.C. Law 16-191, in subsec. (e), substituted “subchapter IX-A of Chapter 2 of this title” for “subchapter IX of Chapter 2 of this title”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004 (D.C. Law 15-115, Mar. 30, 2004, law notification 51 DCR 3802).

Emergency legislation. — For temporary (90 day) amendment of section, see § 402(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 402(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 2(a) of Office of Administrative Hearings Independence Preservation Emergency Amendment Act of 2003 (D.C. Act 15-275, December 18, 2003, 51 DCR 45).

For temporary (90 day) amendment of section, see § 2(a) of Office of Administrative

Hearings Independence Preservation Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-403, March 18, 2004, 51 DCR 3645).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 15-39. — For Law 15-39, see notes following § 2-1219.01.

Legislative history of Law 15-177. — Law 15-177, the “Office of Administrative Hearings Independence Preservation Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-571, which was referred to the Committee on the Human Services. The Bill was adopted on first and second readings on April 6, 2004, and May 4, 2004, respectively. Signed by the Mayor on May 21, 2004, it was assigned Act No. 15-427 and transmitted to both Houses of Congress for its review. D.C. Law 15-177 became effective on September 8, 2004.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

Short title. — Short title of title IV of Law 15-39: Section 401 of D.C. Law 15-39 provided that title IV of the act may be cited as the Office of Administrative Hearings Amendment Act of 2003.

Short title: Section 3009 of D.C. Law 17-219 provided that subtitle D of title III of the act may be cited as the “Office of Administrative Hearings Space Analysis Act of 2008”.

Editor’s notes. — Section 3010 of D.C. Law 17-219 provided:

“(a) Notwithstanding any other provision of law, the District of Columbia Auditor shall contract for an analysis to identify the space needs of the Office of Administrative Hearings; provided, that the District of Columbia Auditor shall not utilize a subordinate agency to provide or procure this analysis.

“(b) The analysis shall be submitted to the Council not later than December 1, 2008.”

§ 2-1831.03. Jurisdiction of the Office and agency authority to review cases.

(a) As of the day that begins the first pay period after 180 days following Council confirmation of the individual who will serve as the first Chief Administrative Law Judge of the Office, this chapter shall apply to adjudicated cases under the jurisdiction of the following agencies:

- (1) Department of Health;
- (2) Department of Human Services;
- (3) Board of Appeals and Review;
- (4) Repealed;

(5) All adjudicated cases in which a hearing is required to be held pursuant to § 7-2108(a) and 7-2108(b), including licensing and enforcement matters arising under rules issued by the Child and Family Services Agency;

(6) All adjudicated cases required to be heard pursuant to §§ 8-802 and 8-902;

(7) Repealed;

(8) Department of Banking and Financial Institutions;

(9) All adjudications involving infractions of rules established pursuant to subchapter II of Chapter 9A of Title 50 and Chapter 15 of Title 18 of the District of Columbia Municipal Regulations; and

(10) All adjudications involving infractions of subchapter II-A of Chapter 10 of Title 6 [§§ 6-1041.01 through 6-1041.09] and the rules promulgated under its authority.

(b) In addition to those agencies listed in subsection (a) of this section, as of October 1, 2004, this chapter shall apply to adjudicated cases under the jurisdiction of the following agencies:

(1) Department of Employment Services, other than the private workers' compensation function;

(2) Department of Consumer and Regulatory Affairs, except for those cases under the jurisdiction of the Rent Administrator and those cases under the jurisdiction of the Real Property Tax Appeals Commission for the District of Columbia;

(3) Taxicab Commission;

(4) All adjudicated cases of the Office of Tax and Revenue arising from tax protests filed pursuant to § 47-4312; and

(5) All adjudicated enforcement cases brought by the Historic Preservation Office within the Office of Planning.

(b-1)(1) In addition to those agencies listed in subsections (a) and (b) of this section, as of October 1, 2006, this chapter shall apply to adjudicated cases under the jurisdiction of the Rent Administrator in the Department of Consumer Regulatory Affairs.

(2) In preparation for the transfer of jurisdiction of the Rent Administrator's adjudicatory function to the Office, the Rent Administrator of the Department of Consumer and Regulatory Affairs shall submit a plan to the Mayor and Council by December 31, 2004 describing how the Rent Administrator's office will function after its adjudicatory responsibilities are transferred to the Office, the legislative changes needed to prepare the Rent Administrator for its new role, and the resources needed to maintain its non-adjudicatory functions. The plan shall be developed in consultation with the Office.

(b-2) In addition to those adjudicated cases listed in subsections (a), (b), and (b-1) of this section, as of January 1, 2009, this chapter shall apply to all adjudicated cases involving:

(1) The imposition of a civil fine for violation of firearm registrant requirements pursuant to § 7-2502.09(b) [(b) repealed];

(2) The denial or revocation of a firearm registration certificate pursuant to § 7-2502.10;

(3) The denial or revocation of a dealer license pursuant to § 7-2504.06; and

(4) The imposition of a civil fine for violations of Chapter 10 of Title 7 [§ 7-1001 et seq.], pursuant to § 7-1007.

(b-3) In addition to those cases described in subsections (a), (b), (b-1), and (b-2) of this section, as of May 5, 2010, this chapter shall apply to adjudicated cases required to be heard pursuant to § 42-3141.06.

(b-4) In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), and (b-3) of this section, this chapter shall apply to all adjudicated cases involving the impoundment of a vehicle pursuant to § 22-2724(a).

(b-5) This chapter shall apply to appeals pursuant to D.C. Official Code §§ 47-857.09a and 47-859.04a.

(c) Those agencies, boards, and commissions that are not included in subsections (a), (b), (b-1), (b-2), or (b-3) of this section may:

(1) Refer individual cases to the Office, with the approval of the Chief Administrative Law Judge; or

(2) Elect to be covered by this chapter, subject to the approval of the Chief Administrative Law Judge and the Mayor, and upon such terms as the Mayor may set.

(d) Repealed.

(e) Nothing in this chapter shall be construed to grant a right to a hearing not created independently by a constitutional provision or a provision of law other than this chapter, except with regard to the discipline or removal of an Administrative Law Judge or the Chief Administrative Law Judge.

(f) Except as provided in subsection (h) of this section, no agency of the District of Columbia to which this chapter applies shall adjudicate adjudicated cases under the jurisdiction of the Office of Administrative Hearings or employ hearing officers, either full- or part-time, for the purpose of adjudicating cases under the jurisdiction of the Office.

(g) Any case initiated by, or arising from a decision or action of, an agency or a portion of an agency in receivership shall not be heard by the Office unless the receiver has entered a binding agreement that any order issued by the Office in the matter would have the same force, effect, and finality as it would if the receivership did not exist.

(h) Nothing in this chapter shall be construed to limit the authority of an agency covered in subsections (a), (b), (b-1), (b-2), or (b-3) of this section, if the authority exists pursuant to other provisions of the law, to have an agency head or one or more members of the governing board, commission, or body of the agency adjudicate cases falling within its jurisdiction in lieu of the Office. This authority may not be delegated in whole or in part to any subordinate employees of the agency.

(i)(1) A board or commission with authority to issue professional or occupational licenses may delegate to the Office its authority to conduct a hearing and issue an order on the proposed denial, suspension, or revocation of a license or on any proposed disciplinary action against a licensee or applicant for a license. The Office's order shall be appealable to the board or commission pursuant to § 2-1831.16(b).

(2) A case that was delegated by a board or commission to an administrative law judge or hearing examiner employed by an agency subject to this chapter shall be deemed to have been delegated to the Office pursuant to this section as of the date that the agency's adjudicated cases became subject to this chapter.

(j) A person who has filed a protest of a proposed assessment under § 47-4312 and requested a hearing with the Office shall be deemed to have elected adjudication by the Office as the exclusive means of adjudication of all challenges to the proposed assessment, and to have waived any right to adjudication of a challenge to the proposed assessment in any other forum. Nothing in this subsection limits the right of any person to judicial review of an order of the Office pursuant to § 2-1831.16.

(Mar. 6, 2002, D.C. Law 14-76, § 6, 48 DCR 11442; Nov. 13, 2003, D.C. Law 15-39, § 402(b), 50 DCR 5668; Sept. 8, 2004, D.C. Law 15-177, § 2(b), 51 DCR 5709; Dec. 7, 2004, D.C. Law 15-205, § 3502, 51 DCR 8441; Dec. 7, 2004, D.C. Law 15-217, § 3(a), 51 DCR 9126; Apr. 13, 2005, D.C. Law 15-354, §§ 10, 84(c), 86, 52 DCR 2638; Apr. 4, 2006, D.C. Law 16-83, § 2(a), 53 DCR 1059; Mar. 2, 2007, D.C. Law 16-189, § 3, 53 DCR 6786; Mar. 6, 2007, D.C. Law 16-225, § 2, 53 DCR 10232; Mar. 14, 2007, D.C. Law 16-275, § 202, 54 DCR 880; Aug. 15, 2008, D.C. Law 17-216, § 2, 55 DCR 7500; Mar. 25, 2009, D.C. Law 17-353, § 191, 56 DCR 1117; Mar. 31, 2009, D.C. Law 17-372, § 2, 56 DCR 1365; May 22, 2010, D.C. Law 18-146, § 3, 57 DCR 2549; Sept. 18, 2010, D.C. Law 18-219, § 13(a), 57 DCR 4353; Nov. 6, 2010, D.C. Law 18-259, § 3, 57 DCR 5591; Mar. 31, 2011, D.C. Law 18-352, § 3, 58 DCR 744; Apr. 8, 2011, D.C. Law 18-363, § 3(e), 58 DCR 963.)

Effect of amendments. — D.C. Law 15-39, in subsec. (a), substituted “As of the day that begins the first pay period after 180 days following Council confirmation of the individual who will serve as the first Chief Administrative Law Judge of the Office” for “As of October 1, 2003” in the introductory language, substituted “All adjudicated cases pertaining to special education heard by the D.C. Public Schools” for “Department of Consumer and Regulatory Affairs” in par. (4), and repealed par. (7); in subsec. (b), substituted “Department of Consumer and Regulatory Affairs” for “All adjudicated cases pertaining to special education heard by the D.C. Public Schools” in par. (2), made a nonsubstantive change in par. (3), and added par. (4); and repealed subsec. (d).

D.C. Law 15-177 repealed par. (4) of subsec. (a) and rewrote subsec. (c) which had read:

“(4) All adjudicated cases pertaining to special education heard by the D.C. Public Schools;”

“(c) Those agencies that are not included in subsections (a) or (b) of this section may refer individual cases to the Office of Administrative Hearings, with the approval of the Chief Administrative Law Judge, or elect, subject to the approval of the Mayor and upon such terms as the Mayor shall set, to be covered by this chapter.”

D.C. Law 15-205 rewrote par. (2) of subsec. (b); added subsec. (b-1); and, in subsections (c) and (h), substituted “(a), (b), or (b-1)” for “(a) or (b)”. Prior to amendment, par. (2) of subsec. (b) had

read as follows: “(2) Department of Consumer and Regulatory Affairs;”

D.C. Law 15-217, rewrote par. (4) of subsec. (b); in subsec. (c), substituted “agencies, boards, and commissions” for “agencies”; and added subsections. (i) and (j). Prior to amendment, par. (4) of subsec. (b) had read as follows: “(4) All adjudicated cases pertaining to tax-related issues heard by the Office of Tax and Revenue.”

D.C. Law 15-354, in subsections. (a)(4) and (b)(2), validated a previously made technical changes; and, in subsec. (f), substituted “adjudicated cases” for “contested cases”.

D.C. Law 16-83 rewrote subsec. (b-1)(1) which read as follows: “(b-1)(1) In addition to those agencies listed in subsections (a) and (b) of this section, as of October 1, 2005, this chapter shall apply to adjudicated cases under the jurisdiction of the Rent Administrator in the Department of Consumer and Regulatory Affairs.”

D.C. Law 16-189 added subsec. (b)(5).

D.C. Law 16-225 added subsec. (a)(9).

D.C. Law 16-275 added subsec. (a)(10).

D.C. Law 17-216, in subsec. (b)(2), substituted “Rent Administrator and those cases under the jurisdiction of the Board of Real Property Assessment and Appeals” for “Rent Administrator”.

D.C. Law 17-353 validated previously made technical corrections in subsec. (b).

D.C. Law 17-372 added subsec. (b-2).

D.C. Law 18-146, in subsec. (b-2), deleted “or” from the end of par. (2); substituted “; and” for a period at the end of par. (3), and added par. (4).

D.C. Law 18-219 added subsec. (b-3); and, in subssecs. (c) and (h), substituted “(a), (b), (b-1), (b-2), or (b-3)” for “(a), (b), or (b-1)”.

D.C. Law 18-259 added subsec. (b-4).

D.C. Law 18-352 added subsec. (b-5).

D.C. Law 18-363, in subsec. (b)(2), substituted “Real Property Tax Appeals Commission for the District of Columbia” for “Board of Real Property Assessments and Appeals”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of the Office of Administrative Hearings Independence Preservation Temporary Amendment Act of 2004 (D.C. Law 15-115, Mar. 30, 2004, law notification 51 DCR 3802).

Section 2 of D.C. Law 16-134, in subsec. (a)(7), substituted “;” for “; and”; in subsec. (a)(8), substituted “; and” for a period; and added subsec. (a)(9), which read as follows:

“(9) All adjudications involving infractions of rules established pursuant to sections 9c, 9d, 9e, and 9f of the Department of Transportation Establishment Act of 2002, effective March 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.01 et seq.), and Chapter 15 of Title 18 of the District of Columbia Municipal Regulations.”

Section 6(b) of D.C. Law 16-134 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 16-249 added par. (3) to subsec. (b-1) to read as follows:

“(3) Notwithstanding paragraphs (1) and (2) of this subsection or any other provision of law, the Rent Administrator, or any employee or other person to whom authority has been lawfully delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before October 1, 2006, but in which no final order was issued before that date, and may rule upon any post-hearing motion including a motion for reconsideration.”

Section 4(b) of D.C. Law 16-249 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 16-259, in subsec. (b)(2), substituted “Rent Administrator and those cases under the jurisdiction of the Board or Real Property Assessment and Appeals” for “Rent Administrator”.

Section 7(b) of D.C. Law 16-259 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-98, in subsec. (b-1)(1), designated the existing language as subpar. (A), and added a new subpar. (B) to read as follows:

“(B) Notwithstanding subparagraph (A) of this paragraph, the Rent Administrator, or any employee or other person to whom authority has been delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before Oc-

tober 1, 2006, but in which no final order was issued before that date, and may rule upon any post-hearing motion, including a motion for reconsideration.”

Section 4(b) of D.C. Law 17-98 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-102, in subsec. (b)(2), substituted “Rent Administrator and those cases under the jurisdiction of the Board of Real Property Assessment and Appeals” for “Rent Administrator”.

Section 7(b) of D.C. Law 17-102 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-31 designated the existing language of subsec. (b-1)(1) as (b-1)(1)(A), and added subsec. (b-1)(1)(B) to read as follows:

“(B) Notwithstanding subparagraph (A) of this paragraph, the Rent Administrator, or any employee or other person to whom authority has been delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before October 1, 2006, but in which no final order was issued before that date, and in any case remanded by the Rental Housing Commission that does not require a new hearing to be conducted. The Rent Administrator, or a delegatee, may also rule upon any post-hearing motion, including a motion for reconsideration.”

Section 5(b) of D.C. Law 18-31 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-151, in subsec. (b-1)(1), designated the existing text as subpar. (A) and added subpar. (B) to read as follows:

“(B) Notwithstanding subparagraph (A) of this paragraph, the Rent Administrator, or any employee or other person to whom authority has been delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before October 1, 2006, but in which no final order was issued before that date, and in any case remanded by the Rental Housing Commission that does not require a new hearing to be conducted. The Rent Administrator; or a delegatee, may also rule upon any post-hearing motion, including a motion for reconsideration.”

Section 4(b) of D.C. Law 18-151 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-347, in subsec. (b-1)(1), designated the existing language as subpar. (A), and added subpar. (B) to read as follows:

“(B) Notwithstanding subparagraph (A) of this paragraph, the Rent Administrator, or any employee or other person to whom authority

has been delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before October 1, 2006, but in which no final order was issued before that date, and in any case remanded by the Rental Housing Commission that does not require a new hearing to be conducted. The Rent Administrator, or a delegatee, may also rule upon any post-hearing motion, including a motion for reconsideration.”

Section 4(b) of D.C. Law 18-347 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 402(b) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 402(b) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 2(b) of Office of Administrative Hearings Independence Preservation Emergency Amendment Act of 2003 (D.C. Act 15-275, December 18, 2003, 51 DCR 45).

For temporary (90 day) amendment of section, see § 2(b) of Office of Administrative Hearings Independence Preservation Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-403, March 18, 2004, 51 DCR 3645).

For temporary (90 day) amendment of section, see § 3502 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 2(a) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 2(a) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

For temporary (90 day) amendment of section, see § 3502 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) amendment of section, see § 2(a) of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-181, October 4, 2005, 52 DCR 9085).

For temporary (90 day) amendment of section, see § 2(a) of Second Office of Administrative Hearings Rental Housing Emergency

Amendment Act of 2005 (D.C. Act 16-246, December 22, 2005, 53 DCR 274).

For temporary (90 day) amendment of section, see § 2 of District Department of Transportation DC Circulator Emergency Amendment Act of 2006 (D.C. Act 16-321, March 23, 2006, 53 DCR 2557).

For temporary (90 day) amendment of section, see § 2(a) of Office of Administrative Hearings Rental Housing Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-333, March 23, 2006, 53 DCR 2596).

For temporary (90 day) addition, see § 3 of Targeted Historic Preservation Assistance Emergency Amendment Act of 2006 (D.C. Act 16-472, July 31, 2006, 53 DCR 6781).

For temporary (90 day) addition, see § 3 of Targeted Historic Preservation Assistance Congressional Review Emergency Act of 2006 (D.C. Act 16-500, October 23, 2006, 53 DCR 9046).

For temporary (90 day) amendment of section, see § 2 of Rent Administrator Hearing Authority Emergency Amendment Act of 2006 (D.C. Act 16-532, December 4, 2006, 53 DCR 9841).

For temporary (90 day) amendment of section, see § 2 of Nuisance Properties Abatement Reform and Real Property Classification Emergency Amendment Act of 2006 (D.C. Act 16-586, December 28, 2006, 54 DCR 353).

For temporary (90 day) amendment of section, see § 2 of District Department of Transportation DC Circulator Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-3, January 16, 2007, 54 DCR 1439).

For temporary (90 day) amendment of section, see § 2 of Rent Administrator Hearing Authority Emergency Amendment Act of 2007 (D.C. Act 17-148, October 17, 2007, 54 DCR 10758).

For temporary (90 day) amendment of section, see § 2 of Nuisance Properties Abatement Reform and Real Property Classification Emergency Amendment Act of 2007 (D.C. Act 17-173, November 2, 2007, 54 DCR 11204).

For temporary (90 day) amendment of section, see § 2 of Rent Administrator Hearing Authority Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-255, January 23, 2008, 55 DCR 1270).

For temporary (90 day) amendment of section, see § 2 of Nuisance Properties Abatement Reform and Real Property Classification Congressional Review Emergency Act of 2008 (D.C. Act 17-436, July 16, 2008, 55 DCR 8272).

For temporary (90 day) amendment of section, see §§ 2, 5 of Firearms Registration Emergency Amendment Act of 2008 (D.C. Act 17-651, January 6, 2009, 56 DCR 911).

For temporary (90 day) amendment of section, see § 2 of Rent Administration Hearing Authority Emergency Amendment Act of 2009 (D.C. Act 18-53, April 27, 2009, 56 DCR 3596).

For temporary (90 day) amendment of section, see § 2, of Rent Administrator Hearing Authority Emergency Amendment Act of 2009 (D.C. Act 18-317, February 22, 2010, 57 DCR 1656).

For temporary (90 day) amendment of section, see § 13(a) of Anti-Graffiti Emergency Act of 2010 (D.C. Act 18-389, May 5, 2010, 57

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 15-39. — For Law 15-39, see notes following § 2-1219.01.

Legislative history of Law 15-177. — For Law 15-177, see notes following § 2-1831.02.

Legislative history of Law 15-205. — Law 15-205, the “Fiscal Year 2005 Budget Support Act of 2004”, was introduced in Council and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

Legislative history of Law 15-217. — Law 15-217, the “Office of Administrative Hearings Establishment Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-817, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 29, 2004, and July 13, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-522 and transmitted to both Houses of Congress for its review. D.C. Law 15-217 became effective on December 7, 2004.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 2-534.

Legislative history of Law 16-83. — Law 16-83, the “Office of Administrative Hearings Term Amendment Act of 2005”, was introduced in Council and assigned Bill No. 16-279 which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-269 and transmitted to both Houses of Congress for its review. D.C. Law 16-83 became effective on April 4, 2006.

Legislative history of Law 16-189. — For Law 16-189, see notes following § 6-1102.

Legislative history of Law 16-225. — Law 16-225, the “District Department of Transportation DC Circulator Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-634, which was referred to Committee on Public Works and Environment. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December

19 2006, it was assigned Act No. 16-554 and transmitted to both Houses of Congress for its review. D.C. Law 16-225 became effective on March 6, 2007.

Legislative history of Law 16-275. — Law 16-275, the “Inclusionary Zoning Implementation Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-779, which was referred to Committee on the Whole. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-632 and transmitted to both Houses of Congress for its review. D.C. Law 16-275 became effective on March 14, 2007.

Legislative history of Law 17-216. — Law 17-216, the “Nuisance Properties Abatement Reform and Real Property Classification Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-86 which was referred to Finance and Revenue and Public Services and Consumer Affairs. The Bill was adopted on first and second readings on March 4, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 24, 2008, it was assigned Act No. 17-416 and transmitted to both Houses of Congress for its review. D.C. Law 17-216 became effective on August 15, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 17-372. — Law 17-372, the “Firearms Control Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-843 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 28, 2009, it was assigned Act No. 17-708 and transmitted to both Houses of Congress for its review. D.C. Law 17-372 became effective on March 31, 2009.

Legislative history of Law 18-146. — Law 18-146, the “Service Animal Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-207, which was referred to the Committee on Public Safety and the Judiciary. The bill was adopted on first and second readings on February 2, 2010, and March 2, 2010, respectively. Signed by the Mayor on March 18, 2010, it was assigned Act No. 18-329 and transmitted to both Houses of Congress for its review. D.C. Law 18-146 became effective on May 22, 2010.

Legislative history of Law 18-259. — For history of Law 18-259, see notes under § 23-1904.

Legislative history of Law 18-352. — Law 18-352, the “Residential Housing Tax Abatement Clarification Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-897, which was referred to the Commit-

tee on Finance and Revenue. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-702 and transmitted to both Houses of Congress for its review. D.C. Law 18-352 became effective on March 31, 2011.

Legislative history of Law 18-363. — For history of Law 18-363, see notes under § 2-1215.04.

Short title. — Short title of subtitle E of title III of Law 15-205: Section 3501 of D.C. Law

15-205 provided that subtitle E of title III of the act may be cited as the Office of Administrative Hearings Amendment Act of 2004.

Editor's notes. — Applicability: Section 4 of D.C. Law 16-189 provided: "The implementation of the provisions of this act is subject to appropriations and nothing in this act shall be construed to create an entitlement."

Section 5(a) of D.C. Law 17-216 provided that sections 2, 3, and 4(b) and (c) shall apply to real property tax years beginning after September 30, 2006.

§ 2-1831.04. Chief Administrative Law Judge.

(a) The Office shall be headed by a Chief Administrative Law Judge who shall be accountable and responsible for the fairness, impartiality, effectiveness, and efficiency of the Office.

(b) The Chief Administrative Law Judge shall:

(1) Be appointed by the Mayor, with the advice and consent of the Council;

(2) Serve a 6-year term and be eligible for reappointment by the Mayor, with the advice and consent of the Council, for a maximum of 2 terms as Chief Administrative Law Judge;

(3) Take an oath of office, as required by law, prior to the commencement of duties;

(4) Devote full-time to the duties of the Office and shall not engage in the practice of law, or perform any other duties that are inconsistent with the duties and responsibilities of the Chief Administrative Law Judge;

(5) Be a member in good standing of the District of Columbia Bar at the time he or she assumes office and throughout his or her tenure as Chief Administrative Law Judge;

(6) Be a resident of the District of Columbia or become a resident of the District of Columbia within 180 days of his or her taking office;

(7) Not be subject to removal from office before expiration of his or her term, except upon a written finding of the Mayor of good cause, subject to the right of appeal;

(8) Have the powers and duties specified in this chapter, and the powers, privileges, and immunities of an Administrative Law Judge; and

(9) Be appointed to the Excepted Service as a statutory officeholder pursuant to § 1-609.08.

(c) The Chief Administrative Law Judge shall be compensated at the Grade 18 level, Step 5, of the Mayor's Excepted Service Schedule.

(d) At the conclusion of his or her term or a period of service of at least 2 years, the Chief Administrative Law Judge shall have the right to assume a position as a full-time or part-time Administrative Law Judge for a full 6-year term; provided, that he or she shall have no such right if he or she was removed from office for cause, or if the Mayor makes a written finding within 60 days of the effective date of the Chief Administrative Law Judge's resignation or the end of the Chief Administrative Law Judge's term, whichever is earlier, that cause for removal existed at or before the conclusion of his or her period of service. Such a finding is subject to a right of appeal.

(e) A former Chief Administrative Law Judge serving pursuant to subsection (d) of this section shall hold a position entitled "Senior Administrative Law Judge." Upon becoming a Senior Administrative Law Judge, the rate of pay of any former Chief Administrative Law Judge shall be reduced to the same rate of pay as the Administrative Law Judge or Senior Administrative Law Judge then holding the highest grade in the Office. Thereafter, the Senior Administrative Law Judge's rate of pay may be adjusted in the same manner as the rate of pay of an Administrative Law Judge. After completing any full 6-year term, a Senior Administrative Law Judge may be reappointed to another full term in accordance with section § 2-1831.10(a), (b), and (c).

(Mar. 6, 2002, D.C. Law 14-76, § 7, 48 DCR 11442; Apr. 4, 2006, D.C. Law 16-83, § 2(b), 53 DCR 1059.)

Effect of amendments. — D.C. Law 16-83, in subssecs. (d) and (e), substituted "6-year term" for "10-year term".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Second Office of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-246, December 22, 2005, 53 DCR 274).

For temporary (90 day) amendment of section, see § 2(b) of Office of Administrative Hearings Rental Housing Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-333, March 23, 2006, 53 DCR 2596).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 16-83. — For Law 16-83, see notes following § 2-15831.03.

§ 2-1831.05. Powers and duties of the Chief Administrative Law Judge.

(a) The Chief Administrative Law Judge shall:

- (1) Supervise the Office of Administrative Hearings;
- (2) Oversee and administer assignment of Administrative Law Judges to preside over adjudicated cases heard by the Office;
- (3) To the extent he or she deems appropriate, establish internal classifications for case assignment and management on the basis of subject matter, expertise, case complexity, and other appropriate criteria;
- (4) Establish standard and specialized training programs for Administrative Law Judges;
- (5) Appoint, in accordance with applicable law and available funding, promote, discipline, and remove staff employed by the Office, other than Administrative Law Judges;
- (6) Provide for, or require completion of, continuing education programs for Administrative Law Judges and other employees of the Office deemed to be necessary or desirable;
- (7) Develop and implement rules of procedure and practice for cases before the Office (including rental housing cases within the jurisdiction of the Office) and approve the use of forms and documents that will assist in managing cases coming before the Office;
- (8) Monitor and supervise the quality of administrative adjudication;
- (9) Develop and implement a code of professional responsibility for Administrative Law Judges;
- (10) Develop and implement annual performance standards for the man-

agement and disposition of cases assigned to Administrative Law Judges, which shall take account of subject matter and case complexity;

(11) Apply a pay scale and retention allowances equivalent to those that are available to Legal Service and Senior Executive Attorney Service attorneys in a manner designed to attract highly capable public and private sector attorneys to become Administrative Law Judges in the Office; provided, that Administrative Law Judges shall receive a minimum annual compensation at that point on the ES-10 pay scale that is equivalent to the mid-point of the LX-2 pay scale;

(12) Issue and transmit to the Mayor and the Council, not later than 90 days after the close of the first complete fiscal year of the Office's operation and each fiscal year thereafter, an annual report on the operations of the Office. The annual report shall include performance evaluations and case statistics for each Administrative Law Judge from the filing of a case to disposition.

(b) The Chief Administrative Law Judge may:

(1) Serve as an Administrative Law Judge in any case;

(2) Furnish Administrative Law Judges on a reimbursable basis to District of Columbia or other government entities not covered by this unit;

(3) Accept and expend funds, grants, bequests, and gifts on behalf of the Office, and accept the donation of services that are related to the purpose of the Office unless such a donation would create a conflict of interest in violation of applicable law;

(4) Enter into agreements and contracts under law with any public or private entities or educational institutions;

(5) Develop and maintain a program for student interns and law clerks to work in the Office;

(6) Recommend to the Commission the proposal and promulgation of rules regulating the appointment, reappointment, discipline, and removal of Administrative Law Judges;

(7) Adopt, in accordance with § 2-505, rules that are necessary or desirable to facilitate implementation of this unit, other than rules regulating the appointment, reappointment, discipline, and removal of Administrative Law Judges promulgated pursuant to § 2-1831.11;

(8) Assess reasonable filing, copying, and other fees, and adopt rules for waiving or reducing fees for parties who, after careful review, are determined by the Office to be incapable of paying full fees; provided, that filing fees permitted under this subsection shall not be charged to the District of Columbia government or the United States;

(9) Collect and retain revenues paid in connection with any adjudicated case, shall be deposited into the unrestricted fund balance of the General Fund of the District of Columbia;

(10) Retain outside counsel, other than the Corporation Counsel, to represent the Office or any employee of the Office in his or her official capacity in actual or anticipated litigation;

(11) Implement a program for ongoing quality assurance and performance review; provided, that no such review shall require that an outcome in any case be altered;

(12) Issue and implement procedures, practices, and guidelines relating to the operations or responsibilities of the Office; and

(13) Exercise any other lawful authority to effectuate the purposes of this chapter.

(Mar. 6, 2002, D.C. Law 14-76, § 8, 48 DCR 11442; Aug. 16, 2008, D.C. Law 17-219, § 3012, 55 DCR 7598; June 3, 2011, D.C. Law 18-377, § 18, 58 DCR 1174; Sept. 14, 2011, D.C. Law 19-21, § 9049, 58 DCR 6226.)

Effect of amendments. — D.C. Law 17-219, in subsec. (a)(11), inserted “; provided, that Administrative Law Judges shall receive a minimum annual compensation at that point on the ES-10 pay scale that is equivalent to the mid-point of the LX-2 pay scale;”.

D.C. Law 18-377, in subsec. (a)(7), inserted “(including rental housing cases within the jurisdiction of the Office)”.

D.C. Law 19-21, in subsec. (b)(9), substituted “revenues” for “a portion of revenue”, and substituted “shall be deposited into the unrestricted fund balance of the General Fund of the District of Columbia.” for “, such revenue to be maintained by the Chief Financial Officer in a non-lapsing account to fund the administrative adjudication services provided by the Office, except that such funds shall only be collected and maintained in a manner consistent with safeguarding the integrity and independence of the decisional process in matters pending before the Office;”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 519 of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of sec-

tion, see § 519 of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

Legislative history of Law 18-377. — Law 18-377, the “Criminal Code Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-963, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 2, 2011, it was assigned Act No. 18-722 and transmitted to both Houses of Congress for its review. D.C. Law 18-377 became effective on June 3, 2011.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 2-351.15.

Short title. — Short title: Section 3011 of D.C. Law 17-219 provided that subtitle E of title III of the act may be cited as the “Administrative Law Judge Pay Parity Amendment Act of 2008”.

§ 2-1831.06. Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings.

(a) There is established the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings. The Commission’s mission shall be to ensure the recruitment and retention of a well-qualified, efficient, and effective corps of Administrative Law Judges in the Office.

(b) The Commission shall have final authority to appoint, reappoint, discipline, and remove Administrative Law Judges.

(c) No Administrative Law Judge shall be appointed to an initial term without the affirmative vote of a majority of the voting members of the Commission; provided, that the Commission shall appoint to an initial term as an Administrative Law Judge any hearing examiner employed by an agency to which this chapter becomes applicable if that person timely seeks the appointment and is eligible for the appointment pursuant to § 2-1831.08(e).

(d) Commission members shall have protection from liability as provided in § 2-415(b-1).

(Mar. 6, 2002, D.C. Law 14-76, § 9, 48 DCR 11442; Dec. 7, 2004, D.C. Law 15-217, § 3(b), 51 DCR 9126.)

Effect of amendments. — D.C. Law 15-217 added subsec. (d).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3 of the Commission on Selection and Tenure of Administrative Law Judges Non-Liability Temporary Amendment Act of 2004 (D.C. Law 15-169, June 19, 2004, law notification 51 DCR 7334).

Emergency legislation. — For temporary (90 day) amendment of section, see § 3 of Commission on Selection and Tenure of Administrative Law Judges Non-Liability Emergency

Amendment Act of 2004 (D.C. Act 15-389, March 18, 2004, 51 DCR 3387).

For temporary (90 day) amendment of section, see § 3 of Commission on Selection and Tenure of Administrative Law Judges Non-Liability Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-444, June 23, 2004, 51 DCR 6556).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 15-217. — For Law 15-217, see notes following § 2-1831.03.

CASE NOTES

In general.

Record was insufficient for appellate court to rule on whether unemployment compensation claimant's application for review of denial of benefits was timely since Office of Administrative Hearings (OAH) did not determine whether claimant's representations that he did

not receive claims examiner's decision and claims examiner later faxed claimant the decision were true, and thus, case would be remanded for an appropriate hearing and further consideration of the issue of timeliness. *McDowell v. Southwest Distrib.*, 899 A.2d 767, 2006 D.C. App. LEXIS 221 (2006).

§ 2-1831.07. Commission members.

(a) The Commission shall consist of 3 voting members. The voting members of the Commission shall serve staggered terms, as provided in subsections (c) and (d) of this section. One voting member shall be appointed by the Mayor, one voting member shall be appointed by the Chairman of the Council of the District of Columbia, with the approval of a majority of the Council, and one voting member shall be appointed by the Chief Judge of the Superior Court of the District of Columbia. The Corporation Counsel, or his or her designee from within the ranks of the Senior Executive Attorney Service, and the Chief Administrative Law Judge shall serve as non-voting *ex officio* members of the Commission.

(b) A majority of the voting members of the Commission shall select its chairperson at the start of each fiscal year. In the absence of such a selection, the Commission member appointed by the Chief Judge of the Superior Court of the District of Columbia shall chair the Commission. The Chairperson may designate another member to act for him or her in case of absence or other exigency. A majority of the Commission's voting members shall constitute a quorum.

(c) Except as provided in subsection (d) of this section, each member of the Commission shall serve a 3-year term and shall be eligible for reappointment. The terms of the first members of the Commission shall commence on May 1, 2003, and shall expire as provided in subsection (d) of this section. All subsequent terms for members of the Commission shall commence immedi-

ately upon the expiration of the previous term. If a vacancy exists after the start of any 3-year term of office, the person appointed to fill that vacancy shall be appointed to serve the unexpired portion of the term. If a member of the Commission leaves office before the expiration of his or her term, a new member may be appointed to serve out the remainder of the term.

(d) The initial term of the voting member of the Commission appointed by the Mayor shall expire on April 30, 2004. The initial term of the voting member of the Commission appointed by the Chairman of the Council shall expire on April 30, 2005. The initial term of the voting member of the Commission appointed by the Chief Judge of the Superior Court of the District of Columbia shall expire on April 30, 2006.

(e) Members of the Commission shall not receive any salary or remuneration, but may receive reimbursement of reasonable expenses incurred in connection with their service on the Commission in accordance with applicable law.

(f) No voting member of the Commission shall be eligible for appointment as an Administrative Law Judge or Chief Administrative Law Judge while serving on the Commission and until the passage of at least 3 years from the termination of his or her service on the Commission. No voting member of the Commission shall appear as an attorney or otherwise participate in any professional or representative capacity in any case pending before the Office while serving on the Commission and until the passage of at least 3 years from the termination of his or her service on the Commission. This section does not disqualify any firm or person, other than the member or former member of the Commission, from representing a party in any adjudicated case.

(g) No member of the Commission shall exercise his or her authority, or shall act in any other manner, to direct the outcome of any case pending before the Office.

(Mar. 6, 2002, D.C. Law 14-76, § 10, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.08. Administrative Law Judges.

(a) Administrative Law Judges shall be accountable and responsible for the fair, impartial, effective, and efficient disposition of cases to which they are assigned by the Chief Administrative Law Judge.

(b) An Administrative Law Judge shall be appointed to the Excepted Service as a statutory officeholder pursuant to § 1-609.08, upon the affirmative vote of a majority of the voting members of the Commission after a selection process in accordance with rules promulgated pursuant to § 2-1831.11(a) and (b).

(c)(1) The initial term of office of an Administrative Law Judge appointed prior to December 6, 2005, shall be 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment by the Commission to a term of 10 years. After serving an initial reappointment term of 10 years, the Administrative Law Judge shall be eligible for reappointment by the Commission to a new term of 6 years.

(2) The initial term of office of an Administrative Law Judge hired after December 5, 2005, shall be 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment by the Commission to a term of 6 years.

(3) At the expiration of any 6-year term of office, an Administrative Law Judge shall be eligible for reappointment by the Commission to a new term of 6 years.

(4) Non-reappointment of an Administrative Law Judge shall not be deemed to be discipline or removal of the Administrative Law Judge.

(d) To be eligible for appointment, an Administrative Law Judge shall:

(1) At the time of appointment, be a member in good standing of the District of Columbia Bar and remain in good standing throughout his or her tenure as an Administrative Law Judge;

(2) If appointed to a position at grade 15 or below, be subject to the residency requirements applicable to attorneys pursuant to § 1-609.06(c);

(3) If appointed to a position at a level higher than grade 15, be subject to the residency requirements placed on members of the Senior Executive Attorney Service pursuant to § 1-608.59;

(4) Have at least 5 years experience in the practice of law, including experience with court, administrative, or arbitration litigation;

(5) Possess judicial temperament, expertise, experience, and analytical and other skills necessary and desirable for an Administrative Law Judge; and

(6) Satisfy all other requirements specified in rules promulgated pursuant to § 2-1831.11(a) and (b);

(e) An individual occupying a position as a hearing officer in an agency at the time the agency becomes subject to this chapter is eligible to be appointed as an Administrative Law Judge in the Office; provided, that he or she satisfies all the requirements for appointment as an Administrative Law Judge specified in this chapter and in the rules promulgated pursuant to this chapter.

(f) No hearing officer shall be required to accept an appointment as an Administrative Law Judge pursuant to subsection (e) of this section. Any hearing officer who is not appointed or is ineligible to be appointed as an Administrative Law Judge shall be reassigned, without reduction in grade or step, to another position within the agency employing that individual, or by the Mayor to a position in another agency.

(g) Any Administrative Law Judge appointed pursuant to the authority of subsection (e) of this section who is not reappointed after expiration of his or her initial 2-year term may be appointed to the Legal Service, and be placed in a position in the agency that employed the individual immediately before he or she accepted the appointment as an Administrative Law Judge or in any other position designated by the Corporation Counsel.

(h) The compensation of an Administrative Law Judge shall not exceed the compensation level available to attorneys of the Senior Executive Attorney Service created by § 1-608.53.

(Mar. 6, 2002, D.C. Law 14-76, § 11, 48 DCR 11442; Apr. 4, 2006, D.C. Law 16-83, § 2(c), 53 DCR 1059; Mar. 2, 2007, D.C. Law 16-191, § 125, 53 DCR 6794.)

Effect of amendments. — D.C. Law 16-83 rewrote subsec. (c) which read as follows: “(c) The initial term of office of an Administrative Law Judge shall be 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment to a term of 10 years. At the expiration of any 10-year term of office, an Administrative Law Judge shall be eligible for reappointment by the Commission to a new term of 10 years. Non-reappointment of an Administrative Law Judge shall not be deemed to be discipline or removal of the Administrative Law Judge.”

D.C. Law 16-191, in subsec. (c)(1), validated a previously made technical correction.

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(c) of Second Office of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-246, December 22, 2005, 53 DCR 274).

For temporary (90 day) amendment of section, see § 2(c) of Office of Administrative Hearings Rental Housing Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-333, March 23, 2006, 53 DCR 2596).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 16-83. — For Law 16-83, see notes following § 2-15831.03.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 2-1217.71.

§ 2-1831.09. Powers, duties, and liability of Administrative Law Judges.

(a) An Administrative Law Judge shall:

(1) Participate in the program of orientation and in programs of continuing legal education for Administrative Law Judges required by the Chief Administrative Law Judge;

(2) Meet annual performance standards applicable to his or her duties;

(3) Engage in no conduct inconsistent with the duties, responsibilities, and ethical obligations of an Administrative Law Judge;

(4) Not be responsible to, or subject to the supervision or direction of, an officer, employee, attorney, or agent engaged in the performance of investigative, prosecutorial, or advisory functions for another agency;

(5) Fully participate in Office management committees and management activities to set and steer policies relating to Office operations, including, without limitation, personnel matters;

(6) Supervise, direct, and evaluate the work of employees assigned to him or her;

(7) Conform to all legally applicable standards of conduct;

(8) Decide all cases in an impartial manner;

(9) Devote full-time to the duties of the position and shall not:

(A) Engage in the practice of law; or

(B) Perform any duties that are inconsistent with the duties and responsibilities of an Administrative Law Judge;

(10) Cooperate with the Executive Director of the Office to achieve efficient and effective administration of the Office; and

(11) Take an oath of office, as required by law, prior to the commencement of duties.

(b) In any case in which he or she presides, an Administrative Law Judge may:

(1) Issue subpoenas and may order compliance therewith;

(2) Administer oaths;

(3) Accept documents for filing;

(4) Examine an individual under oath;

(5) Issue interlocutory orders and orders;
(6) Issue protective orders;
(7) Control the conduct of proceedings as deemed necessary or desirable for the sound administration of justice;

(8) Impose monetary sanctions for failure to comply with a lawful order or lawful interlocutory order, other than an order that solely requires payment of a sum certain as a result of an admission or finding of liability for any infraction or violation that is civil in nature;

(9) Suspend, revoke, or deny a license or permit;

(10) Perform other necessary and appropriate acts in the performance of his or her duties and properly exercise any other powers authorized by law;

(11) Engage in or encourage the use of alternative dispute resolution;

(12) When authorized by rules promulgated pursuant to § 2-505, issue administrative inspection authorizations that authorize the administrative inspection and administrative search of a business property or premises, whether private or public, and excluding any area of a premises that is used exclusively as a private residential dwelling. Subject to the exclusions of this paragraph, property (including any premises) is subject to administrative inspection and administrative search under this paragraph only if there is probable cause to believe that:

(A) The property is subject to one or more statutes relating to the public health, safety, or welfare;

(B) Entry to said property has been denied to officials authorized by civil authority to inspect or otherwise to enforce such statutes or regulations; and

(C) Reasonable grounds exist for such administrative inspection and search; and

(13) Exercise any other lawful authority.

(c) Any rule promulgated pursuant to subsection (b) (12) of this section shall include all protections provided by Rule 204 of the Superior Court of the District of Columbia Rules of Civil Procedure.

(d) A person may not refuse or decline to comply with a lawful interlocutory order or lawful order issued by an Administrative Law Judge.

(e) In addition to any other sanctions that an Administrative Law Judge may lawfully impose for the violation of any order or interlocutory order, an Administrative Law Judge, or a party in interest in an adjudicated case, may apply to any judge of the Superior Court of the District of Columbia for an order issued on an expedited basis to show cause why a person should not be held in civil contempt for refusal to comply with an order or an interlocutory order issued by an Administrative Law Judge. On the return of an order to show cause, if the judge hearing the case determines that the person is guilty of refusal to comply with a lawful order or interlocutory order of the Administrative Law Judge without good cause, the judge may commit the offender to jail or may provide any other sanction authorized in cases of civil contempt. A party in interest may also bring an action for any other equitable or legal remedy authorized by law to compel compliance with the requirements of an order or interlocutory order of an Administrative Law Judge.

(f) An Administrative Law Judge has no authority to commit any person to jail.

(g) An Administrative Law Judge shall be subject to suit, liability, discovery, and subpoena in a civil action relating to actions taken and decisions made in the performance of duties while in office on the same basis as a judge of the Superior Court of the District of Columbia.

(Mar. 6, 2002, D.C. Law 14-76, § 12, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

CASE NOTES

Testimony of ALJ.

Administrative law judge (ALJ) was not speaking as private citizen regarding matters of public concern when he testified publicly before District of Columbia Council and made private disclosure to Council staff regarding peer review system, and thus communications were not protected by First Amendment, as required for judge's claims against District of Columbia, chief ALJ, and members of ALJ selection commission, alleging that decision not to reappoint him to ten-year term of service violated his constitutional and statutory rights

to report his supervisors' misconduct; judge repeatedly identified himself in his professional capacity rather than his personal capacity, judge's testimony before Council concerned only subject matter of his employment, and testimony arose from job duties as ALJ to comment on and shape policy of Office of Administrative Hearings. *Pearson v. District of Columbia*, 644 F.Supp.2d 23, 2009 U.S. Dist. LEXIS 63556 (2009), affirmed by 377 Fed. Appx. 34, 2010 U.S. App. LEXIS 11055 (D.C. Cir. 2010).

§ 2-1831.10. Reappointment and discipline of Administrative Law Judges.

(a) No Administrative Law Judge shall be reappointed upon the expiration of any 2-year, 6-year, or 10-year term without the affirmative vote of a majority of the voting members of the Commission.

(b) At least 6 months before the expiration of any term, an Administrative Law Judge seeking reappointment to a new term shall file a statement with the Commission specifying that he or she requests reappointment to a new term. For any Administrative Law Judge who timely files such a statement, the Chief Administrative Law Judge shall prepare a record of the Administrative Law Judge's performance with regard to that judge's efficiency, efficacy, and quality of performance over the period of his or her appointment. The record shall be prepared and transmitted to the Commission within 120 days of the filing of the statement. At a minimum, the record shall contain at least one year of decisions authored by the Administrative Law Judge, data on how the Administrative Law Judge has met applicable objective performance standards, the Chief Administrative Law Judge's recommendation as to whether the reappointment should be made, and any other information requested by one or more members of the Commission. The members of the Commission shall consider all information received with regard to reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless it is determined that the recommendation is not founded on substantial evidence.

(c) The voting members of the Commission shall vote on the request for reappointment prior to the expiration of the Administrative Law Judge's term, but no earlier than 60 days prior to such expiration. A reappointment approved by the Commission is effective upon expiration of the previous appointment.

(d) During a term of office, an Administrative Law Judge shall be subject to discipline and removal, only for cause, with a right to notice and a hearing before the Commission pursuant to this act and rules issued pursuant to § 2-1831.11(a) and (b). An Administrative Law Judge's unexcused failure to meet annual performance standards in any 2 years within a 3-year period shall be among the grounds constituting cause for removal.

(e) Any disciplinary action against an Administrative Law Judge proposed by the Chief Administrative Law Judge that would result in a suspension of 10 days or more, a reduction in grade, or removal of the Administrative Law Judge shall take effect only if a majority of the voting members of the Commission approve the action.

(Mar. 6, 2002, D.C. Law 14-76, § 13, 48 DCR 11442; Apr. 4, 2006, D.C. Law 16-83, § 2(d), 53 DCR 1059.)

Effect of amendments. — D.C. Law 16-83, in subsec. (a), substituted “any 2-year, 6-year, or 10-year term” for “any 2-year or 10-year term”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d) of Second Office of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-246, December 22, 2005, 53 DCR 274).

For temporary (90 day) amendment of section, see § 2(d) of Office of Administrative Hearings Rental Housing Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-333, March 23, 2006, 53 DCR 2596).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 16-83. — For Law 16-83, see notes following § 2-15831.03.

§ 2-1831.11. Rules governing appointment, reappointment, and discipline of Administrative Law Judges.

(a) In accordance with § 2-505, the Mayor shall promulgate initial rules governing the appointment, reappointment, discipline, removal, and qualifications of Administrative Law Judges within 180 days of March 6, 2002. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) Upon convening, or at anytime thereafter, the Commission may amend or repeal, in whole or in part, or may add to, the initial rules promulgated under the authority of subsection (a) of this section, in accordance with § 2-505. Any proposed rule changes shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. The Chief Administrative Law Judge may at any time request that the Commission review and consider

proposed rule changes authorized by this subsection. The Commission also, on its own initiative, or upon recommendation of the Chief Administrative Law Judge, may promulgate emergency rules, valid for not more than 120 days, in the limited circumstances permitted by § 2-505(c).

(c) Any rules promulgated pursuant to subsections (a) and (b) of this section shall be designed to competitively recruit and retain highly qualified, effective, and efficient Administrative Law Judges from the public and private sectors. Any such rules:

(1) Shall require that Administrative Law Judges meet the qualifications established in § 2-1831.08(d)(1) through (5);

(2) May prescribe the passing of a qualifying examination as a minimum, but not exclusive, requirement for appointment;

(3) May prescribe additional qualifications for the purpose of ensuring the appointment of well-qualified, efficient, and effective Administrative Law Judges;

(4) Shall require that all Administrative Law Judge positions (except positions subject to § 2-1831.08(e) be timely advertised in a portion of a daily or weekly periodical that is likely to be seen by highly qualified public and private sector attorneys in the District of Columbia who are seeking or considering positions as attorneys or administrative law judges in the government. This requirement shall not apply to a position open only to Administrative Law Judges already appointed pursuant to § 2-1831.10.

(d) Rules promulgated pursuant to subsections (a) and (b) of this section shall govern the process of selecting Administrative Law Judges.

(Mar. 6, 2002, D.C. Law 14-76, § 14, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Delegation of Authority. — Delegation of Authority under D.C. Law 14-76, the “Office of

Administrative Hearings Establishment Act of 2001”, see Mayor’s Order 2003-53, May 2, 2003 (50 DCR 4290).

§ 2-1831.12. Executive Director and other personnel.

(a) There shall be an Executive Director of the Office. The Executive Director shall be responsible for the administration of the Office, subject to the supervision of the Chief Administrative Law Judge.

(b) The Executive Director shall be appointed by the Chief Administrative Law Judge as a statutory employee in the Excepted Service pursuant to § 1-609.08, and shall serve at the pleasure of the Chief Administrative Law Judge. In making the appointment, the Chief Administrative Law Judge shall consider experience and special training in administrative, operational, and managerial positions and familiarity with court and administrative hearing procedures and operations. The Executive Director need not be an attorney and may not concurrently hold an appointment as an Administrative Law Judge appointed under the authority of § 2-1831.08(b).

(c) The Executive Director shall be a resident of the District of Columbia or become a resident not more than 180 days after the date of appointment, and

shall remain a resident, unless temporarily or permanently exempted from these requirements by the Mayor for good cause.

(d) The Office shall have a Clerk and may have deputy clerks who shall perform such duties as may be assigned to them. The Clerk and deputy clerks may be authorized to administer oaths, issue subpoenas, and perform other appropriate duties.

(e) With the approval of the Chief Administrative Law Judge, the Executive Director may appoint and fix the salary of any attorney and non-attorney personnel appointed pursuant to the authority of this chapter, other than Administrative Law Judges, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director. Law clerks and attorneys employed by the office in a capacity other than as an Administrative Law Judge shall be appointed non-competitively as Excepted Service attorneys under § 1-609.06, and shall not be appointed to the Legal Service or Senior Executive Attorney Service.

(f) The Executive Director shall not have supervisory authority over any person appointed as an Administrative Law Judge.

(Mar. 6, 2002, D.C. Law 14-76, § 15, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.13. Interaction of the Office with other agencies; other procedural matters.

(a) All components of the District of Columbia government shall cooperate with the Chief Administrative Law Judge, the Executive Director, and Administrative Law Judges in the discharge of their duties.

(b) The Office shall be subject to audit and examination on the same basis as other District of Columbia government agencies.

(c) When a case is brought before the Office, any agency that is a party shall take no further decisional action with respect to the subject matter in issue, except in the role of a party litigant or with the consent of all parties, for so long as the Office has jurisdiction over the proceeding.

(d) All documents filed in any case before the Office shall be available to the public for review unless a statute, protective order, or other legal requirement prohibits disclosure.

(e) Beginning November 15, 2004, and by November 15 of each year thereafter, the Chief Administrative Law Judge shall transmit to the Mayor, the Council, and each agency to which this chapter applies, a written summary of the Office's caseload during the previous fiscal year that is attributable to any provision of law administered by or under the jurisdiction of each agency. The summary shall also include comparative data on caseload from prior fiscal years. Each agency to which this chapter applies shall provide a written response to the summary to the Mayor, the Council, and the Office within 30 calendar days of issuance of the summary. The response shall state whether the agency knows or believes there is a reasonable possibility that such caseload will increase or decrease by more than 10% in the current or following

fiscal year based on any planned or ongoing agency actions, or any other reason, and specifying the anticipated amount of the increase or decrease and the reasons therefor. For purposes of this subsection, the existence of a 10% or greater increase or decrease shall be measured pursuant to rules promulgated under this chapter.

(f) Prior to any agency promulgating a rule (other than an emergency rule) that will materially affect the number or types of cases heard by the Office, the agency director shall consult with the Chief Administrative Law Judge regarding fiscal and operational impact of the proposed rule, and shall submit to the Chief Administrative Law Judge a statement containing the agency's projections regarding increases in case volume and case complexity likely to follow promulgation of the rule.

(g) The director of any agency that becomes subject to this chapter shall direct that all employees of the agency provide the Office with any financial and programmatic information requested by the Office relating to any operational or personnel responsibilities of the Office, including, without limitation, any information the Chief Administrative Law Judge deems necessary in order to absorb the transfer of an agency's adjudication function into the Office. The information shall be provided promptly and in no event later than the 15th day after the request is received. The Chief Financial Officer shall also issue the directive called for in this subsection with respect to the employees under his or her control.

(h)(1) Whenever any applicable law or regulation requires or permits the filing in the Office of an affidavit or other writing subscribed to under oath, the subscriber, in lieu of a sworn or notarized statement, may submit a written declaration subscribed as true under penalty of perjury in substantially the following form:

"I declare (or certify, verify, or state), under penalty of perjury, that the foregoing is true and correct. Executed on (date).

"(Signature)".

(2) Signing such a statement shall be considered the taking of an oath or affirmation for purposes of §§ 22-2402 and 22-2404.

(i) No person outside the Office shall participate in or in any way influence or attempt to influence, except through the ordinary litigation process, the fair and independent decisionmaking process in an adjudicated case before the Office.

(Mar. 6, 2002, D.C. Law 14-76, § 16, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.14. Representation of parties in adjudicated cases before the Office.

(a) An individual may represent himself or herself before the Office.

(b) An individual or other party may be represented before the Office by an attorney authorized to practice law in the District of Columbia, or may be

assisted by others in such a manner and under such circumstances as are permitted by law, or as may be permitted under the rules of the Office.

(c) A corporation, partnership, limited partnership, or other private legal entity may be represented before the Office by a duly authorized officer, director, general partner, or employee.

(d) An agency may be represented before the Office by the Corporation Counsel, an attorney assigned to the agency, or by a duly authorized agency employee when consistent with applicable law and rules.

(e) The Office shall promulgate rules regulating attorneys practicing before the Office.

(Mar. 6, 2002, D.C. Law 14-76, § 17, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.15. Conflicts of regulations.

Unless a federal law or regulation or District of Columbia statute requires that a particular federal or District of Columbia procedure be observed, this chapter and the rules promulgated pursuant to this chapter shall take precedence in the event of a conflict with other authority with regard to any issue involving or relating to procedures of the Office.

(Mar. 6, 2002, D.C. Law 14-76, § 18, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.16. Judicial review and administrative appeals.

(a) An order of the Office shall be effective upon its issuance, unless stayed by an Administrative Law Judge *sua sponte* or upon motion of any party. Any party may file a motion for reconsideration of an order or a motion for a new trial within 10 calendar days of service of an order. Unless otherwise ordered by an Administrative Law Judge, the filing of such a motion shall not stay the effectiveness of an order. If such a motion is timely filed, the order shall not be final for purposes of judicial review until the motion is ruled upon by the Administrative Law Judge or is denied by operation of law.

(b) Any agency, board, commission, or body of an agency identified in subchapter III of this chapter, other than the Board of Appeals and Review, shall retain jurisdiction to entertain and determine appeals from orders of Administrative Law Judges, as granted in that chapter. The Rental Housing Commission shall have jurisdiction to review orders of the Office in all adjudicated cases brought pursuant to Chapter 35 of Title 42 [§ 42-501.01 et seq.]. A board or commission that delegates a matter pursuant to § 2-1831.03(i) shall have jurisdiction of any appeal by any party from an order of an Administrative Law Judge issued in that matter.

(c) Except as provided in subsection (b) of this section, any person suffering a legal wrong or adversely affected or aggrieved by any order of the Office in any adjudicated case may obtain judicial review of that order.

(d) Notwithstanding any other provision of law, any agency suffering a legal wrong or adversely affected or aggrieved by any order of the Office in any adjudicated case may obtain judicial review of that order.

(e) Judicial review of all orders of the Office in contested cases shall be in the District of Columbia Court of Appeals in accordance with the procedures and rules of that court.

(f) Judicial review of any order of the Office in a matter that is not a contested case shall be in accordance with other applicable law.

(g) In all proceedings for judicial review authorized by this section, the reviewing court shall apply the standards of review prescribed in § 2-510. A reviewing court may not modify a monetary sanction imposed by an Administrative Law Judge if that sanction is within the limits established by law or regulation.

(h) Notwithstanding any other provision of law, neither the Office nor an Administrative Law Judge shall be a party in any proceeding brought by a party in any court seeking judicial review of any order of the Office, or of any order of an agency head or governing board, commission, or body of an agency that decides any appeal from any order of the Office. Only the parties before the Office or any other party permitted to participate by the reviewing court shall be parties in any such proceeding for judicial review.

(Mar. 6, 2002, D.C. Law 14-76, § 19, 48 DCR 11442; Dec. 7, 2004, D.C. Law 15-217, § 3(c), 51 DCR 9126; Apr. 4, 2006, D.C. Law 16-83, § 2(e), 53 DCR 1059.)

Effect of amendments. — D.C. Law 15-217 added the last sentence to subsec. (b).

D.C. Law 16-83, in subsec. (b), substituted “The Rental Housing Commission shall have jurisdiction to review orders of the Office in all adjudicated cases brought pursuant to Chapter 35 of Title 42.” for “The Rental Housing Commission shall have jurisdiction to review orders of the Office in all adjudicated cases in which the Rent Administrator, or his or her designee, would have had jurisdiction but for the enactment of this chapter.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 2(b) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

For temporary (90 day) amendment of section, see § 2(b) of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-181, October 4, 2005, 52 DCR 9085).

For temporary (90 day) amendment of section, see § 2(e) of Second Office of Administrative Hearings Rental Housing Emergency Amendment Act of 2005 (D.C. Act 16-246, December 22, 2005, 53 DCR 274).

For temporary (90 day) amendment of section, see § 2(e) of Office of Administrative Hearings Rental Housing Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-333, March 23, 2006, 53 DCR 2596).

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

Legislative history of Law 15-217. — For Law 15-217, see notes following § 2-1831.03.

Legislative history of Law 16-83. — For Law 16-83, see notes following § 2-1831.03.

§ 2-1831.17. Advisory Committee.

(a) There is established an Advisory Committee to the Office of Administrative Hearings.

(b) The Advisory Committee shall consist of the following 8 persons:

(1) The Mayor or his or her designee;

- (2) The Chairman of the Council or his or her designee;
- (3) The Corporation Counsel or his or her designee;
- (4) Two agency heads appointed by the Mayor, or their designees, from agencies with cases coming before the Office of Administrative Hearings;
- (5) Two members of the District of Columbia Bar, appointed by the Mayor, neither of whom shall be employed by the District of Columbia government; and
- (6) A member of the public, appointed by the Mayor, who is not a member of the District of Columbia Bar.

(c) The Mayor shall chair the Advisory Committee, or may designate an Advisory Committee Chair from among its members.

(d) A member of the Advisory Committee may not receive compensation for service on the Advisory Committee, but is entitled to reimbursement for travel expenses in accordance with applicable law and regulations.

(e) The Advisory Committee shall:

(1) Advise the Chief Administrative Law Judge in carrying out his or her duties;

(2) Identify issues of importance to Administrative Law Judges and agencies that should be addressed by the Office;

(3) Review issues and problems relating to administrative adjudication;

(4) Review and comment upon the policies and regulations proposed by the Chief Administrative Law Judge; and

(5) Make recommendations for statutory and regulatory changes that are consistent with advancing the purposes of this chapter.

(f) The Advisory Committee shall meet at a regular time and place to be determined by the committee.

(g) The Chief Administrative Law Judge shall confer with the Advisory Committee at its meetings and shall provide such information as the Advisory Committee lawfully may request.

(Mar. 6, 2002, D.C. Law 14-76, § 20, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.18. Study of and report on Bureau of Traffic Adjudication.

The Mayor shall conduct a study to consider methods to improve the quality of adjudications within the Bureau of Traffic Adjudication at the Department of Motor Vehicles. This study shall review best practices in other jurisdictions and examine issues such as staffing levels, timeliness of decisions, caseloads, and qualifications of hearing examiners. The Mayor shall provide a report to the Council, including recommendations for legislative and operational changes, by October 1, 2002.

(Mar. 6, 2002, D.C. Law 14-76, § 21, 48 DCR 11442.)

Legislative history of Law 14-76. — For Law 14-76, see notes following § 2-1831.01.

§ 2-1831.19. Appropriations. [Repealed].

Repealed.

(Mar. 6, 2002, D.C. Law 14-76, § 22, 48 DCR 11442; Aug. 16, 2008, D.C. Law 17-219, § 7036, 55 DCR 7598.)

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

CHAPTER 19. GOVERNMENT LANGUAGE ACCESSIBILITY.

Subchapter I. Interpreters

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- 2-1901. Definitions.
- 2-1902. Interpreters required.
- 2-1903. Notice of need for interpreter.
- 2-1904. Preliminary determination of interpreter's qualifications.
- 2-1905. Intermediary interpreter to be used.
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- 2-1912.01. Procedures to certify qualified interviewers.

Subchapter II. Language Access

- 2-1931. Definitions.
- 2-1932. Oral language services provided by covered entities.
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*Subchapter I. Interpreters.***§ 2-1901. Definitions.**

For the purposes of this chapter, the term:

(1) "Appointing authority" means the presiding judge of any court of the District of Columbia, the chairperson of any District of Columbia board or commission, the director or commissioner of any department or agency of the District of Columbia, the Chairman of the Council of the District of Columbia or the chairperson of any committee of the Council of the District of Columbia conducting a hearing, or any other person presiding at any hearing or other proceeding in which a qualified interpreter is required pursuant to this chapter.

(2) "Communication-impaired person" means a hearing-impaired person or a non-English or limited-English speaking person.

(3) "Hearing-impaired person" means a person who, because of a hearing impairment, cannot readily understand oral communications or who cannot communicate effectively through speech, and, if the communication at issue is in writing, who cannot communicate effectively in the written English language.

(3A) "Intermediary interpreter" means any person, including any hearing-impaired person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language by acting as an intermediary between a hearing-impaired person and a qualified interpreter.

(4) "Non-English or limited-English speaking person" means a person who is unable to readily understand oral and written communications in the English language or who cannot communicate effectively in the spoken or written English language.

(5) "Qualified interpreter" means a person who is listed by the Office of Court Interpreter Services or the United States Department of State as being, or is otherwise found by the court to be, skilled in the language or form of communication needed to communicate fluently with a communication-im-

paired person and to translate or interpret information accurately to and from the communication-impaired person.

(6) “Qualified interviewer” means a person who is certified by the Metropolitan Police Department as being, or is otherwise found by the court to be, skilled in the language or form of communication needed to communicate fluently with a communication-impaired person.

(Jan. 28, 1988, D.C. Law 7-62, § 2, 34 DCR 7426; Apr. 24, 2007, D.C. Law 16-306, § 201(a), 53 DCR 8610.)

Prior Codifications. — 1981 Ed., § 31-2701.

Effect of amendments. — D.C. Law 16-306 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 201(a) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 201(a) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 201(a) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 201(a) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative history of Law 7-62. — Law 7-62, “Interpreters for Hearing-Impaired and Non-English Speaking Persons Act of 1987,” was introduced in Council and assigned Bill No. 7-108, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 13, 1987, and October 27, 1987, respectively. Signed by the Mayor on November 5, 1987, it was assigned Act No. 7-95 and transmitted to both Houses of Congress for its review.

Legislative history of Law 16-306. — Law 16-306, the “Omnibus Public Safety Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-247, which was referred to Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 2006, and October 3, 2006, respectively. Signed by the Mayor on October 17, 2006, it was assigned Act No. 16-482 and transmitted to both Houses of Congress for its review. D.C. Law 16-306 became effective on April 24, 2007.

CASE NOTES

ANALYSIS

In general.

Non-English speaking person.

Purpose of act.

In general.

The Interpreters for Hearing-Impaired and Non-English Speaking Persons Act grants a non-English speaker an unrestricted right to a qualified interpreter during police questioning. *Torres v. United States*, 929 A.2d 880, 2007 D.C. App. LEXIS 482 (2007).

Non-English speaking person.

Determining whether someone qualifies as a non-English speaker entitled to an interpreter’s services may, in some cases, pose a difficult question that turns upon a variety of factors, including that person’s understanding of the English language, and the complexity of the proceedings, issues, and testimony. *Torres v. United States*, 929 A.2d 880, 2007 D.C. App. LEXIS 482 (2007).

Defendant, a native of Honduras, was not a “non-English speaking person” within the meaning of the Interpreters for Hearing-Impaired and Non-English Speaking Persons Act, as would require arresting officer to secure qualified interpreter before questioning defendant; officer initially provided Spanish rights card to ensure that defendant would be able to “read along” while he gave Miranda warnings in English, defendant did not evince any signs of confusion or lack of understanding throughout several interactions with police, and defendant, although his English was perhaps “not perfect,” could communicate effectively in spoken English language. *Torres v. United States*, 929 A.2d 880, 2007 D.C. App. LEXIS 482 (2007).

Purpose of act.

The purpose of this Act is to assist hearing-impaired and non-English speaking persons as they participate in proceedings of the D.C. Court System, the Council of the District of

Columbia, and the District's Administrative Agencies. D.C. Code 1981, §§ 31-2701 et seq., 31-2711(c)(1); Criminal Rule 28(b). Redman v. United States, 616 A.2d 336, 1992 D.C. App. LEXIS 282 (1992).

§ 2-1902. Interpreters required.

(a) Whenever a communication-impaired person is a party or witness, or whenever a juvenile whose parent or parents are communication impaired is brought before a court at any stage of a judicial or quasi-judicial proceeding before a division or office of a court of the District of Columbia, including, but not limited to, civil and criminal court proceedings, proceedings before a commissioner, juvenile proceedings, child support and paternity proceedings, and mental health commitment proceedings, the appointing authority may appoint a qualified interpreter to interpret the proceedings to the communication-impaired person and to interpret the communication-impaired person's testimony. The appointing authority shall appoint a qualified interpreter upon the request of the communication-impaired person.

(b) In any criminal, delinquency, or child neglect proceeding in which counsel has been appointed to represent an indigent defendant who is communication-impaired, a qualified interpreter shall be appointed to assist in communication with counsel in all phases of the preparation and presentation of the case.

(c) Whenever a communication-impaired person is a party or a witness in an administrative proceeding before a department, board, commission, agency, or licensing authority of the District of Columbia, the appointing authority conducting the proceeding may appoint a qualified interpreter to interpret the proceedings to the communication-impaired person and to interpret the communication-impaired person's testimony. The appointing authority shall appoint a qualified interpreter upon the request of the communication-impaired person.

(d) Whenever a communication-impaired person is a witness before any legislative committee, the appointing authority conducting the proceeding may appoint a qualified interpreter to interpret the proceedings to the communication-impaired person and to interpret the communication-impaired person's testimony. The appointing authority shall appoint a qualified interpreter upon the request of the communication-impaired person.

(e)(1) Whenever a communication-impaired person is arrested and taken into custody for an alleged violation of a criminal law, the arresting officer shall either:

(A) Procure a qualified interpreter to translate or interpret information to and from the person during any custodial interrogation, warning, notification of rights, or taking of a written or oral statement; or

(B) Have a qualified interviewer conduct the custodial interrogation, warning, notification of rights, or taking of a written or oral statement in a language other than English, including sign language.

(2) No person who has been arrested but who is otherwise eligible for release shall be held in custody pending arrival of a qualified interpreter or qualified interviewer.

(3) No answer, statement, or admission, written or oral, made by a communication-impaired person in reply to a question of a law enforcement officer may be used against that communication-impaired person in any criminal or delinquency proceeding unless the answer, statement, or admission was made or elicited through either a qualified interpreter or a qualified interviewer and was made knowingly, voluntarily, and intelligently or, in the case of a waiver, unless the court makes a special finding upon proof by a preponderance of the evidence that the answer, statement, or admission made by the communication-impaired person was made knowingly, voluntarily, and intelligently.

(4) A qualified interpreter shall be used to translate any statement taken by a qualified interviewer into English for use in any criminal or delinquency proceeding.

(Jan. 28, 1988, D.C. Law 7-62, § 3, 34 DCR 7426; Apr. 24, 2007, D.C. Law 16-306, § 201(b), 53 DCR 8610.)

Prior Codifications. — 1981 Ed., § 31-2702.

Effect of amendments. — D.C. Law 16-306 rewrote subsec. (e), which had read as follows: “(e) Whenever a communication-impaired person is arrested and taken into custody for an alleged violation of a criminal law, the arresting officer shall procure a qualified interpreter for any custodial interrogation, warning, notification of rights, or taking of a statement. No person who has been arrested but who is otherwise eligible for release shall be held in custody pending arrival of an interpreter. No answer, statement, or admission, written or oral, made by a communication-impaired person in reply to a question of a law-enforcement officer in any criminal or delinquency proceeding may be used against that communication-impaired person unless either the answer, statement, or admission was made or elicited through a qualified interpreter and was made knowingly, voluntarily, and intelligently or, in the case of a waiver, unless the court makes a special finding upon proof by a preponderance of the evidence that the answer, statement, or admission made by the communication-im-

paired person was made knowingly, voluntarily, and intelligently.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 201(b) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 201(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 201(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 201(b) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative history of Law 7-62. — For legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

Legislative history of Law 16-306. — For Law 16-306, see notes following § 2-1901.

CASE NOTES

ANALYSIS

Adequacy of representation.
Admissions and confessions.
Conflicts of interest.
Construction and application.
In general.
Notice of rights and inquiry.
Persons in custody.
Review.
Rights of arrestee.

Summary or direct translation.
Waiver of rights.

Adequacy of representation.

Even if Spanish-speaking defendant did not waive his right, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, to have qualified interpreter facilitate his communication with trial counsel, counsel's failure to request an interpreter did not constitute ineffective assistance; counsel

spoke some Spanish, defense investigator was fluent in Spanish and translated the attorney/client conversations when defendant and his counsel were not able to understand each other, and before he filed the collateral attack on his conviction, defendant never complained about his inability to understand his counsel. *Rivera v. United States*, 941 A.2d 434, 2008 D.C. App. LEXIS 20 (2008).

Admissions and confessions.

Statement to police by defendant, who was not fluent in English, was given voluntarily, and thus, the statement was admissible for impeachment purposes, even though the statement was elicited in violation of the Interpreter Act, where defendant waited only 60 minutes before the police interviewed him, a certified Spanish-language interpreter for the police department read defendant his Miranda rights, the police did not question defendant until he agreed to waive his rights and signed a Spanish-language waiver-of-rights card, the questioning lasted for only 25 minutes, and there was no evidence that the police harmed defendant or verbally threatened him. *Castellon v. United States*, 864 A.2d 141, 2004 D.C. App. LEXIS 681 (2004).

Voluntary statement to police by defendant who was not fluent in English, which statement was elicited in violation of the Interpreter Act, satisfied basic trustworthiness to allow its use for the limited purpose of impeachment, where interpreting officer's first language was Spanish, which was the same as defendant's, defendant had no difficulty understanding the Spanish speaking officer, defendant had spoken to the officer earlier that day and had no trouble understanding the information conveyed by the officer, and defendant initialed the rights card, which indicated that he understood the rights as read to him in Spanish by officer. *Castellon v. United States*, 864 A.2d 141, 2004 D.C. App. LEXIS 681 (2004).

Voluntary statements given by non-English speaking arrestee are admissible for impeachment purposes, even if police department did not comply with requirements of Interpreter Act by informing arrestee of his right to interpreter during custodial interrogation or by obtaining waiver of interpreter right, provided that there are sufficient guarantees of trustworthiness to indicate that statements are reliable and accurate. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Spanish-speaking defendant's statements elicited during questioning by Spanish-speaking detective were trustworthy and reliable; therefore, the statements were properly admitted for impeachment purposes, notwithstanding the violation of the Interpreter Act which

resulted from the detective's questioning of defendant without a "qualified interpreter." *United States v. Barrera*, 121 WLR 917 (Super. Ct. 1993).

Conflicts of interest.

Defendant failed to show that impermissible conflict of interest was created when trial court proceeded, over defendant's objection, with use of interpreter who had translated during grand jury proceedings for his case; there was no showing of any bias. D.C. Code 1981, § 31-2702(a, b). *Dang v. United States*, 741 A.2d 1039, 1999 D.C. App. LEXIS 281 (1999).

Defendant who was convicted in multi-defendant action was not entitled to separate interpreter; since defendants had mutually consistent alibi, there was no direct conflict in their sharing interpreter. D.C. Code 1981, § 31-2702(b). *Dang v. United States*, 741 A.2d 1039, 1999 D.C. App. LEXIS 281 (1999).

When using a single interpreter during a multi-defendant action, the underlying purposes of the interpretation law must be met; specifically, each defendant must be provided the time and the ability to confer effectively with counsel throughout the proceedings, and the court must ensure that each defendant is able to understand the proceedings. D.C. Code 1981, § 31-2702(b). *Dang v. United States*, 741 A.2d 1039, 1999 D.C. App. LEXIS 281 (1999).

Construction and application.

Defendant, a native of Honduras, was not a "non-English speaking person" within the meaning of the Interpreters for Hearing-Impaired and Non-English Speaking Persons Act, as would require arresting officer to secure qualified interpreter before questioning defendant; officer initially provided Spanish rights card to ensure that defendant would be able to "read along" while he gave Miranda warnings in English, defendant did not evince any signs of confusion or lack of understanding throughout several interactions with police, and defendant, although his English was perhaps "not perfect," could communicate effectively in spoken English language. *Torres v. United States*, 929 A.2d 880, 2007 D.C. App. LEXIS 482 (2007).

In general.

If a defendant who is unable to speak and understand English is compelled to face criminal charges without access to effective translation of the proceedings by a competent and impartial interpreter, then his ability to present a defense may be substantially undermined, and there is a serious possibility of grave injustice. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

The Interpreter Act establishes an Office of Interpreter Services (now the OCIS), which is required, inter alia, to set standards and qual-

ifications for interpreters, to maintain a current list of qualified interpreters, to coordinate requests for interpreters, and to pay for the salaries, fees, expenses and costs incident to providing interpreter Service. D.C. Code 1981, § 31-2704. *Ko v. United States*, 722 A.2d 830, 1998 D.C. App. LEXIS 246 (1998), writ of certiorari denied by 526 U.S. 1094, 119 S. Ct. 1512, 143 L. Ed. 2d 664, 1999 U.S. LEXIS 2971, 67 U.S.L.W. 3653 (1999).

Notice of rights and inquiry.

Former wife's due process rights were not violated when trial court failed to inquire as to whether she needed interpreter in her fraud action against her former husband, in which she represented herself after her attorney withdrew from representation; record revealed that wife could communicate in English, and that, while her English was not perfect, it was good enough to be understood, even though she claimed she did not read English very well. U.S. Const. Amend. 14; D.C. Code 1981, § 31-2701. *Esteves v. Esteves*, 680 A.2d 398, 1996 D.C. App. LEXIS 136 (1996).

Interpreter Act requires that police give notice to non-English speaking arrestee that he or she has right to qualified interpreter, that interpreter, if denied, made available before any questioning, that arrestee be given opportunity to consult with attorney before waiving right to interpreter, that arrestee execute specific written or "orally on the record" waiver before any questioning, and that waiver be in writing in arrestee's written language if arrestee does not have attorney. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Persons in custody.

The protections of the Interpreter Act similarly apply only when an individual is in custody within the meaning of *Miranda*. *Morales v. United States*, 866 A.2d 67, 2005 D.C. App. LEXIS 4 (2005).

Defendant, who was not fluent in English, was not in custody when he consented to the search of his room, and thus, the provisions of the Interpreter Act, which required a qualified interpreter to be present when a communication impaired person was in custody, were not triggered, even though the police restricted defendant from entering his room while they waited for an interpreter, who was not certified as a qualified interpreter under the Act, to arrive, where the police entered the apartment with the consent of defendant's brother-in-law, who lived there, defendant's detention lasted only 15 to 20 minutes, he was not handcuffed, and the officers did not display their firearms during the encounter. *Castellon v. United*

States, 864 A.2d 141, 2004 D.C. App. LEXIS 681 (2004).

The Interpreter Act's requirement for a qualified interpreter to be present for any custodial interrogation, warning, notification of rights, or taking of a statement of a communication impaired person only applied to custodial settings, and thus, the Act did not apply to a request for consent to search the property of a person who was not in custody. *Castellon v. United States*, 864 A.2d 141, 2004 D.C. App. LEXIS 681 (2004).

Review.

Remand was necessary for further proceedings on whether statements made by non-English speaking defendant after his arrest were sufficiently reliable and trustworthy to be admissible for impeachment purposes, despite police department's failure to comply with requirements of Interpreter Act in providing qualified interpreter during interrogation or obtaining valid waiver of right to interpreter. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Rights of arrestee.

The Interpreters for Hearing-Impaired and Non-English Speaking Persons Act grants a non-English speaker an unrestricted right to a qualified interpreter during police questioning. *Torres v. United States*, 929 A.2d 880, 2007 D.C. App. LEXIS 482 (2007).

Interpreter Act grants to any non-English speaking arrestee the unrestricted right to qualified interpreter during police questioning. D.C. Code 1981, §§ 31-2702, 31-2702(e). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Summary or direct translation.

Trial court's response to objection that interpreter synthesized testimony of witness was appropriate and effective; trial judge admonished interpreter to translate all of witness' expressions, and no further complaints of synthesis were made. D.C. Code 1981, § 31-2702(b). *Dang v. United States*, 741 A.2d 1039, 1999 D.C. App. LEXIS 281 (1999).

Waiver of rights.

Spanish-speaking defendant waived his right, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, to have qualified interpreter facilitate his communication with trial counsel, where defendant never requested an interpreter for his use during his conversations with counsel. *Rivera v. United States*, 941 A.2d 434, 2008 D.C. App. LEXIS 20 (2008).

A defendant who has been appointed interpreter under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act

must make the court aware of any difficulties with the interpreter, since to allow a defendant to remain silent throughout the trial and then, upon being found guilty, to assert a claim of inadequate translation would be an open invitation to abuse. *Rivera v. United States*, 941 A.2d 434, 2008 D.C. App. LEXIS 20 (2008).

Although a defendant is entitled to an interpreter who is competent to render accurate translations under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, this right may be waived if it is not raised in timely fashion. *Rivera v. United States*, 941 A.2d 434, 2008 D.C. App. LEXIS 20 (2008).

Although a defendant is entitled to an interpreter who is competent to render accurate translations, this right may be waived if it is not raised in timely fashion. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

Trial judge presiding over profoundly hearing-impaired defendant's murder prosecution was the "appointing authority" charged, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, with the responsibility of approving defendant's waiver of his right to a qualified interpreter. *Mesa v. United States*, 875 A.2d 79, 2005 D.C. App. LEXIS 256 (2005).

Police department did not comply with requirements of Interpreter Act by informing defendant, who did not speak English, of his rights under Interpreter Act, and by failing to follow mandatory steps to obtain waiver of right to interpreter during questioning. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

§ 2-1903. Notice of need for interpreter.

(a) A communication-impaired person entitled to an interpreter under this chapter shall, if practicable, notify the appropriate appointing authority of the person's need for an interpreter at least 5 business days prior to the person's appearance. A failure to notify the appointing authority of the need for an interpreter is not a waiver of the right to an interpreter.

(b) An appointing authority, when it knows a communication-impaired person is, or will be coming before it, shall inform the communication-impaired person of the right to a qualified interpreter. In a judicial proceeding, when the court knows that a communication-impaired person will be before it, the court shall inform the party, or the parent of a juvenile who is a party, of the right of any communication-impaired person to a qualified interpreter.

(Jan. 28, 1988, D.C. Law 7-62, § 4, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2703.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

CASE NOTES

ANALYSIS

Admissions and confessions.
Notice of need for interpreter.
Notice of right to interpreter.
Review.

Admissions and confessions.

Voluntary statements given by non-English speaking arrestee are admissible for impeachment purposes, even if police department did not comply with requirements of Interpreter Act by informing arrestee of his right to interpreter during custodial interrogation or by obtaining waiver of interpreter right, provided

that there are sufficient guarantees of trustworthiness to indicate that statements are reliable and accurate. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Notice of need for interpreter.

Defendant must make translation difficulty known to court so that court can take corrective measures, however, interpreter competence does not have to be challenged by attorney, and can be challenged by defendant himself. D.C. Code 1981, § 31-2701 et seq. *Gonzalez v.*

United States, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

Notice of right to interpreter.

Former wife's due process rights were not violated when trial court failed to inquire as to whether she needed interpreter in her fraud action against her former husband, in which she represented herself after her attorney withdrew from representation; record revealed that wife could communicate in English, and that, while her English was not perfect, it was good enough to be understood, even though she claimed she did not read English very well. U.S. Const. Amend. 14; D.C. Code 1981, § 31-2701. *Esteves v. Esteves*, 680 A.2d 398, 1996 D.C. App. LEXIS 136 (1996).

Police department did not comply with requirements of Interpreter Act by informing defendant, who did not speak English, of his rights under Interpreter Act, and by failing to follow mandatory steps to obtain waiver of right to interpreter during questioning. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Interpreter Act requires that police give notice to non-English speaking arrestee that he or

she has right to qualified interpreter, that interpreter, if denied, made available before any questioning, that arrestee be given opportunity to consult with attorney before waiving right to interpreter, that arrestee execute specific written or "orally on the record" waiver before any questioning, and that waiver be in writing in arrestee's written language if arrestee does not have attorney. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Review.

Remand was necessary for further proceedings on whether statements made by non-English speaking defendant after his arrest were sufficiently reliable and trustworthy to be admissible for impeachment purposes, despite police department's failure to comply with requirements of Interpreter Act in providing qualified interpreter during interrogation or obtaining valid waiver of right to interpreter. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

§ 2-1904. Preliminary determination of interpreter's qualifications.

Before appointing an interpreter, an appointing authority shall make a preliminary determination that the interpreter is able to accurately communicate with and translate information to and from the communication-impaired person involved. If the interpreter is not able to provide effective communication with the communication-impaired person, the appointing authority shall appoint another qualified interpreter.

(Jan. 28, 1988, D.C. Law 7-62, § 5, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2704.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

CASE NOTES

ANALYSIS

Harmless and prejudicial error.

In general.

Neutrality of interpreter.

Review.

Waiver of objection.

Harmless and prejudicial error.

Failure to verify that interpreter was able to accurately communicate with and translate information to and from defendant was error. D.C. Code 1981, § 31-2704. *Gonzalez v. United*

States, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

In general.

Defendant must make the court aware of any difficulties with a translator, since to allow a defendant to remain silent throughout the trial and then, upon being found guilty, to assert a claim of inadequate translation would be an open invitation to abuse. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

Section 31-2704 required the trial judge to make a separate on-the-record determination,

with respect to each of the fourteen witnesses who testified through an interpreter, that the particular interpreter was able to provide "effective communication" with that witness. D.C. Code 1981, § 31-2704. *Ko v. United States*, 722 A.2d 830, 1998 D.C. App. LEXIS 246 (1998), writ of certiorari denied by 526 U.S. 1094, 119 S. Ct. 1512, 143 L. Ed. 2d 664, 1999 U.S. LEXIS 2971, 67 U.S.L.W. 3653 (1999).

Neutrality of interpreter.

Interrogating police officer cannot serve as "qualified interpreter" under Interpreter Act, which gives non-English speaking arrestee absolute right to have qualified interpreter present during interrogation, even if interrogating officer is fluent in arrestee's native language; interrogating officer is not neutral and detached. D.C. Code 1981, §§ 31-2704, 31-2707, 31-2708. *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Review.

The Court of Appeals reviews the trial court's determination of the competence of an interpreter for abuse of discretion where the translation difficulties have been made known to the trial court. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

Failure to make preliminary assessment of interpreter's competence was harmless error where defendant alerted court to interpreter's mistranslation during his direct testimony and court took corrective measures by having defendant repeat his answer, and defendant suffered no prejudice from identified instance of mistranslation as testimony involved was not at issue at trial and court took immediate steps to remedy interpreter's error; defendant had some ability to monitor questions and answers and identified mistranslation himself. D.C. Code 1981, § 31-2701 et seq. *Gonzalez v. United*

States, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

Determination of competence of an interpreter is a matter entrusted to sound discretion of trial court, and decision will not be disturbed on appeal unless that discretion has been abused. D.C. Code 1981, § 31-2701 et seq. *Gonzalez v. United States*, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

Issue of interpreter competence was sufficiently preserved for appellate review where defendant brought mistranslation to court's attention, which permitted court to take corrective measures. D.C. Code 1981, § 31-2701 et seq. *Gonzalez v. United States*, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

Waiver of objection.

Although defendant has right to an interpreter who is competent to render accurate translations, right to challenge competence of a translator may be waived if it is not raised in a timely fashion. D.C. Code 1981, § 31-2701 et seq. *Gonzalez v. United States*, 697 A.2d 819, 1997 D.C. App. LEXIS 159 (1997).

Spanish-speaking defendant waived right to question competence of interpreter, due to trial judge's failure to comply with statute requiring preliminary determination of interpreter's competence, by failing to raise issue at trial. D.C. Code 1981, § 31-2704. *Redman v. United States*, 616 A.2d 336, 1992 D.C. App. LEXIS 282 (1992).

Challenge to competence of interpreter appointed for defendant, due to trial judge's failure to comply with statute requiring preliminary determination of interpreter's competence, may be waived if it is not raised in timely fashion. D.C. Code 1981, § 31-2704. *Redman v. United States*, 616 A.2d 336, 1992 D.C. App. LEXIS 282 (1992).

§ 2-1905. Intermediary interpreter to be used.

In any proceeding involving a hearing-impaired person in which a qualified interpreter is unable to render a satisfactory interpretation without the aid of an intermediary interpreter, the hearing-impaired person involved may be permitted by the appointing authority to retain another person to act as an intermediary interpreter to assist the qualified interpreter during the proceedings.

(Jan. 28, 1988, D.C. Law 7-62, § 6, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2705.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

§ 2-1906. Waiver.

(a) A communication-impaired person entitled to the services of an interpreter under this chapter may waive the services of a qualified interpreter in whole or in part. The waiver must be made in writing, or orally on the record, by the communication-impaired person following consultation with that person's attorney. If the person does not have an attorney, the waiver must be made in writing by the communication-impaired person in that person's written language and the waiver must be approved in writing, by the appointing authority.

(b) A communication-impaired person who has waived an interpreter under this section may provide his or her own interpreter at his or her own expense, without regard to whether the interpreter is qualified under this chapter.

(Jan. 28, 1988, D.C. Law 7-62, § 7, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2706.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

CASE NOTES

ANALYSIS

Admissions and confessions.
In general.
Review.

Admissions and confessions.

Profoundly hearing-impaired defendant knowingly, intelligently, and voluntarily waived his right to a qualified interpreter, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, on day he confessed to two murders; defendant voluntarily contacted police and blurted out to interpreters who were present "to be honest with you I did it," defendant was taken to police headquarters without restraint and was given a waiver form, two highly experienced and trained interpreters provided interpretation services as the detectives explained the form to defendant, and defendant signed form. *Mesa v. United States*, 875 A.2d 79, 2005 D.C. App. LEXIS 256 (2005).

Profoundly hearing-impaired defendant knowingly, intelligently, and voluntarily waived any right he had to a qualified interpreter, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, on day he spoke with police detectives conducting murder investigation and gave police permission to take DNA sample and his fingerprints; detective gave defendant a waiver form, defendant read and signed the form while expressing no difficulty in understanding it, two American Sign Language interpreters were present, detective tested defendant's knowledge of English through a questionnaire, and

defendant signed two other waiver forms after detective read forms to him and explained forms to him orally through interpreters. *Mesa v. United States*, 875 A.2d 79, 2005 D.C. App. LEXIS 256 (2005).

Trial judge presiding over profoundly hearing-impaired defendant's murder prosecution was the "appointing authority" charged, under the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, with the responsibility of approving defendant's waiver of his right to a qualified interpreter. *Mesa v. United States*, 875 A.2d 79, 2005 D.C. App. LEXIS 256 (2005).

Interpreter Act requires that police give notice to non-English speaking arrestee that he or she has right to qualified interpreter, that interpreter, if denied, made available before any questioning, that arrestee be given opportunity to consult with attorney before waiving right to interpreter, that arrestee execute specific written or "orally on the record" waiver before any questioning, and that waiver be in writing in arrestee's written language if arrestee does not have attorney. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Police department did not comply with requirements of Interpreter Act by informing defendant, who did not speak English, of his rights under Interpreter Act, and by failing to follow mandatory steps to obtain waiver of right to interpreter during questioning. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

Voluntary statements given by non-English speaking arrestee are admissible for impeachment purposes, even if police department did not comply with requirements of Interpreter Act by informing arrestee of his right to interpreter during custodial interrogation or by obtaining waiver of interpreter right, provided that there are sufficient guarantees of trustworthiness to indicate that statements are reliable and accurate. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

In general.

Although a defendant is entitled to an interpreter who is competent to render accurate translations, this right may be waived if it is

not raised in timely fashion. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

Review.

Remand was necessary for further proceedings on whether statements made by non-English speaking defendant after his arrest were sufficiently reliable and trustworthy to be admissible for impeachment purposes, despite police department's failure to comply with requirements of Interpreter Act in providing qualified interpreter during interrogation or obtaining valid waiver of right to interpreter. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

§ 2-1907. Oath of interpreter.

Before an interpreter appointed under this chapter begins to interpret, the interpreter shall take an oath or affirmation that the interpreter will make a true interpretation in an understandable manner to and for the person for whom the interpreter is appointed to the best of the interpreter's skills and judgment.

(Jan. 28, 1988, D.C. Law 7-62, § 8, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2707.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

CASE NOTES

Neutrality and detachment.

Interrogating police officer cannot serve as "qualified interpreter" under Interpreter Act, which gives non-English speaking arrestee absolute right to have qualified interpreter present during interrogation, even if interrogating

officer is fluent in arrestee's native language; interrogating officer is not neutral and detached. D.C. Code 1981, §§ 31-2704, 31-2707, 31-2708. *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

§ 2-1908. Privileged communications.

If a communication made by a communication-impaired person through an interpreter is privileged, the privilege extends also to the interpreter.

(Jan. 28, 1988, D.C. Law 7-62, § 9, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2708.

Legislative history of Law 7-62. — For

legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

§ 2-1909. Interpreter in full view.

Whenever an interpreter is required to be appointed to assist a hearing-impaired person under this chapter, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and

spatially situated so as to assure effective communication with the hearing-impaired person or persons involved as participants.

(Jan. 28, 1988, D.C. Law 7-62, § 10, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2709. legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

Legislative history of Law 7-62. — For

§ 2-1910. Visual recording.

In any proceeding involving a hearing-impaired person, an appointing authority, on the appointing authority's own motion or on the motion of a party to the proceedings, may order that an electronic, visual recording of the testimony of the hearing-impaired person and its interpretation be made for use in verification of the official transcript of the proceedings.

(Jan. 28, 1988, D.C. Law 7-62, § 11, 34 DCR 7426.)

Prior Codifications. — 1981 Ed., § 31-2710. legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

Legislative history of Law 7-62. — For

§ 2-1911. Office of Interpreter Services.

(a) There is established an Office of Interpreter Services ("Office") to facilitate the use of interpreters in administrative, judicial, and legislative proceedings in the District of Columbia.

(b) The duties and responsibilities of the Office shall include the following:

(1) The Office shall formulate and apply reasonable standards for evaluating the credentials and qualifications of persons who may serve as qualified interpreters in bilingual proceedings and proceedings involving hearing-impaired persons. In formulating and applying the standards for qualifications, the Office shall take into consideration such factors as education, training, experience, demonstrated current competence, and certification by a recognized private, federal, or state registry, board, or other organization that is determined by the Office to possess a sufficient level of competence, training, testing, and certification of interpreters in the particular language speciality of the interpreter.

(2) The Office shall establish and maintain a current list of qualified interpreters who are available to provide interpreter services in the District of Columbia. The list shall include the names of persons who are bilingual interpreters and oral or manual interpreters for hearing-impaired persons.

(3) The Office shall distribute the list of qualified interpreters to appointing authorities upon request.

(4) The Office shall coordinate all requests for interpreter services including scheduling and arranging to provide for all interpreter services requested by appointing authorities.

(5) The Office shall, pursuant to subchapter I of Chapter 5 of this title, issue rules that prescribe a schedule of reasonable fees for services rendered by interpreters and shall establish rules governing the method of payment.

(6) The Office shall pay for the salaries, fees, expenses, and costs incident to providing interpreter services as set forth in § 2-1912.

(7) The Office may perform other duties and functions as are necessary to facilitate the use of interpreter services in the District of Columbia.

(c)(1) Whenever an interpreter is required under this chapter, the appointing authority shall request the Office to assist in locating a qualified interpreter to provide interpreter services. The Office shall promptly assist in locating an interpreter and shall assist with scheduling and arranging to provide for the interpreter services. If the circumstances are such that the appointing authority is unable, or it is impractical, to request the assistance of the Office in locating a qualified interpreter, the appointing authority may arrange for and appoint a qualified interpreter whose name is included on a list of interpreters maintained by the Office.

(2) If none of the listed interpreters is available and communication with a communication-impaired person is required to ascertain information relating to a medical emergency or to determine whether or not to permit that person's immediate release from custody or detention, then the appointing authority shall appoint any person who is able to accurately and simultaneously communicate with and translate information to and from the particular communication-impaired person involved.

(d) In fulfilling the duties and responsibilities set forth in subsection (b) of this section, the Office may contract for interpreter services at a rate of compensation mutually agreed upon by the Office and the interpreter whose services are contracted for, compensate interpreters on an hourly rate or a per diem rate, employ interpreters on a full-time or part-time basis, use qualified volunteer services, or procure the services in any other method consistent with the District of Columbia law. The Office may, with the concurrence of an agency, department, or governmental entity, assign an interpreter to that agency, department, or governmental entity. The assignment shall be made in accordance with § 1-627.02.

(Jan. 28, 1988, D.C. Law 7-62, § 12, 34 DCR 7426; May 10, 1989, D.C. Law 7-231, § 39, 36 DCR 492.)

Prior Codifications. — 1981 Ed., § 31-2711.

Legislative history of Law 7-62. — For legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

Legislative history of Law 7-231. — Law 7-231 was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988

and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

Delegation of Authority. — Delegation of authority under D.C. Law 7-62, the Interpreters for the Hearing-Impaired & Non-English Speaking Persons Act of 1987, see Mayor's Order 90-132, October 5, 1990.

CASE NOTES

ANALYSIS

Harmless or prejudicial error.
In general.
Review.

Harmless or prejudicial error.

In absence of any objection in trial court to performance of interpreter appointed for defendant, Court of Appeals reviews only for "plain error." D.C. Code 1981, §§ 31-2701 et seq.,

31-2711(c)(1); Criminal Rule 28(b). *Redman v. United States*, 616 A.2d 336, 1992 D.C. App. LEXIS 282 (1992).

In general.

Non-existence of the Office of Interpreter Services, as designated in the Interpreters for Hearing Impaired and Non-English Speaking Persons Act, was irrelevant to determination of whether profoundly hearing-impaired defendant had validly waived his rights under the Act to a qualified interpreter, and thus the non-existence of the office did not entitle defendant to suppression of incriminating statements he made to police. *Mesa v. United States*, 875 A.2d 79, 2005 D.C. App. LEXIS 256 (2005).

The Interpreter Act establishes an Office of Interpreter Services (now the OCIS), which is required, *inter alia*, to set standards and qualifications for interpreters, to maintain a current list of qualified interpreters, to coordinate

requests for interpreters, and to pay for the salaries, fees, expenses and costs incident to providing interpreter Service. D.C. Code 1981, § 31-2704. *Ko v. United States*, 722 A.2d 830, 1998 D.C. App. LEXIS 246 (1998), writ of certiorari denied by 526 U.S. 1094, 119 S. Ct. 1512, 143 L. Ed. 2d 664, 1999 U.S. LEXIS 2971, 67 U.S.L.W. 3653 (1999).

Review.

Remand was necessary for further proceedings on whether statements made by non-English speaking defendant after his arrest were sufficiently reliable and trustworthy to be admissible for impeachment purposes, despite police department's failure to comply with requirements of Interpreter Act in providing qualified interpreter during interrogation or obtaining valid waiver of right to interpreter. D.C. Code 1981, §§ 31-2702(e), 31-2703, 31-2706(a). *Barrera v. United States*, 599 A.2d 1119, 1991 D.C. App. LEXIS 323 (1991).

§ 2-1912. Compensation and payments.

(a) An appointed interpreter shall receive a reasonable fee for the interpreter's services.

(b) The salaries, fees, expenses, and costs incident to providing the services of interpreters under this chapter shall be paid for by the Office.

(c) Except in cases in which the communication-impaired person is financially unable to obtain adequate interpreter services, the appointing authority in any court of the District of Columbia may direct that all or part of the salaries, fees, expenses, and costs incurred for interpreter services be apportioned among the parties in a civil action or may be taxed as costs in a civil action.

(Jan. 28, 1988, D.C. Law 7-62, § 13, 34 DCR 7426.)

Section references. — This section is referred to in § 2-1911.

Prior Codifications. — 1981 Ed., § 31-2712.

Legislative history of Law 7-62. — For legislative history of D.C. Law 7-62, see Historical and Statutory Notes following § 2-1901.

CASE NOTES

In general.

All interpreters in criminal cases are appointed by the court and compensated by the court. *Ramirez v. United States*, 877 A.2d 1040, 2005 D.C. App. LEXIS 323 (2005).

The Interpreter Act establishes an Office of Interpreter Services (now the OCIS), which is required, *inter alia*, to set standards and qualifications for interpreters, to maintain a cur-

rent list of qualified interpreters, to coordinate requests for interpreters, and to pay for the salaries, fees, expenses and costs incident to providing interpreter Service. D.C. Code 1981, § 31-2704. *Ko v. United States*, 722 A.2d 830, 1998 D.C. App. LEXIS 246 (1998), writ of certiorari denied by 526 U.S. 1094, 119 S. Ct. 1512, 143 L. Ed. 2d 664, 1999 U.S. LEXIS 2971, 67 U.S.L.W. 3653 (1999).

§ 2-1912.01. Procedures to certify qualified interviewers.

Within 180 days of July 19, 2006, the Chief of Police shall develop and

implement a General Order establishing procedures to certify qualified interviewers. The procedures shall include reasonable standards for evaluating the qualifications and credentials of persons who may serve as qualified interviewers. The standards shall take into consideration such factors as native speaking, education, training, experience, and demonstrated competence.

(Jan. 28, 1988, D.C. Law 7-62, § 13a, as added Apr. 24, 2007, D.C. Law 16-306, § 201(b), 53 DCR 8610.)

Emergency legislation. — For temporary (90 day) addition, see § 201(c) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) addition, see § 201(c) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) addition, see § 201(c)

of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) addition, see § 201(c) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative history of Law 16-306. — For Law 16-306, see notes following § 2-1901.

Subchapter II. Language Access.

§ 2-1931. Definitions.

For purposes of this subchapter, the term:

(1) “Access or participate” means to be informed of, participate in, and benefit from public services, programs, and activities offered by a covered entity at a level equal to English proficient individuals.

(2) “Covered entity” means any District government agency, department, or program that furnishes information or renders services, programs, or activities directly to the public or contracts with other entities, either directly or indirectly, to conduct programs, services, or activities. The term “covered entity” shall not include the Advisory Neighborhood Commissions.

(3)(A) “Covered entity with major public contact” means a covered entity whose primary responsibility consists of meeting, contracting, and dealing with the public.

(B) Covered entities with major public contact are:

- (i) Alcoholic Beverage Regulation Administration;
- (ii) Department of Health;
- (iii) Department of Mental Health;
- (iv) Department of Human Services;
- (v) Department of Employment Services;
- (vi) Fire and Emergency Medical Services;
- (vii) District of Columbia Housing Authority;
- (viii) District of Columbia general ambulatory and emergency care centers;
- (ix) Homeland Security and Emergency Management Agency;
- (x) Metropolitan Police Department;
- (xi) District of Columbia Public Schools;
- (xii) Department of Motor Vehicles;
- (xiii) Department of Housing and Community Development;

- (xiv) Department of Public Works;
- (xv) Department of Corrections;
- (xvi) Office on Aging;
- (xvii) District of Columbia Public Library;
- (xviii) Department of Parks and Recreation;
- (xix) Department of Consumer and Regulatory Affairs;
- (xx) Child and Family Services Agency;
- (xxi) Office of Human Rights;
- (xxii) Office of Personnel;
- (xxiii) Office of Planning;
- (xxiv) Office of Contracting and Procurement;
- (xxv) Office of Tax and Revenue; and
- (xxvi) Office of the People's Counsel.

(C) Other covered entities with major public contact may be designated by the Language Access Director through the Mayor, by regulation, after consultation with the D.C. Language Access Coalition in accordance with § 2-1935(b)(6).

(4) "Language Access Director" means the official in the Office of Human Rights who, pursuant to § 2-1935, coordinates and supervises the activities of District agencies, departments, and programs undertaken to comply with the provisions of this subchapter.

(5) "Limited or no-English proficiency" means the inability to adequately understand or to express oneself in the spoken or written English language.

(6) "Oral language services" means the provision of oral information necessary to enable limited or no-English proficiency residents to access or participate in programs or services offered by a covered entity. The term "oral language services" shall include placement of bilingual staff in public contact positions; the provision of experienced and trained staff interpreters; contracting with telephone interpreter programs; contracting with private interpreter services; and using interpreters made available through community service organizations that are publicly funded for that purpose.

(7) "Vital documents" means applications, notices, complaint forms, legal contracts, and outreach materials published by a covered entity in a tangible format that inform individuals about their rights or eligibility requirements for benefits and participation. The term "vital documents" shall include tax-related educational and outreach materials produced by the Office of Tax and Revenue, but shall not include tax forms and instructions.

(June 19, 2004, D.C. Law 15-167, § 2, 51 DCR 4688; Mar. 14, 2007, D.C. Law 16-262, § 404, 54 DCR 794.)

Effect of amendments. — D.C. Law 16-262, in par. (3)(B)(ix), substituted "Homeland Security and Emergency Management Agency" for "Emergency Management Agency".

Legislative history of Law 15-167. — Law 15-167, the "Language Access Act of 2004", was introduced in Council and assigned Bill No. 15-139, which was referred to the Subcommittee on Human Rights, Latino Affairs and Prop-

erty. The Bill was adopted on first and second readings on March 2, 2004, and April 6, 2004, respectively. Signed by the Mayor on April 21, 2004, it was assigned Act No. 15-414 and transmitted to both Houses of Congress for its review. D.C. Law 15-167 became effective on June 19, 2004.

Legislative history of Law 16-262. — For Law 16-262, see notes following § 2-904.

Delegation of Authority. — Delegation of Access Act, see Mayor's Order 2007-127, May Authority for Rulemaking under the Language 31, 2007 (54 DCR 9065).

§ 2-1932. Oral language services provided by covered entities.

(a) A covered entity shall provide oral language services to a person with limited or no-English proficiency who seeks to access or participate in the services, programs, or activities offered by the covered entity.

(b) A covered entity shall, at least annually, determine the type of oral language services needed based upon:

(1) The number or proportion of limited or no-English proficient persons of the population served or encountered, or likely to be served or encountered by the covered entity, in the District of Columbia;

(2) The frequency with which limited or no-English proficient individuals come into contact with the covered entity;

(3) The importance of the service provided by the covered entity; and

(4) The resources available to the covered entity.

(c)(1) In making the determination under subsection (b) of this section of the type of oral language services needed, the covered entity shall consult the following sources of data to determine the languages spoken and the number or proportion of limited or no-English proficient persons of the population that are served or encountered, or likely to be served or encountered, by the covered entity in the District of Columbia:

(A) The United States Census Bureau's most current report entitled "Language Use and English Ability, Linguistic Isolation" (or any other successor report);

(B) Any other language-related information;

(C) Census data on language ability indicating that individuals speak English "less than very well";

(D) Local census data relating to language use and English language ability;

(E) Other governmental data, including intake data collected by covered entities; data collected by the District of Columbia Public Schools; and data collected by and made available by District government offices that conduct outreach to communities with limited-English proficient populations and that serve as a liaison between the District government and limited-English proficient populations, such as the Office of Latino Affairs and the Office of Asian and Pacific Islander Affairs; and

(F) Data collected and made available by the D.C. Language Access Coalition.

(2) A covered entity shall annually collect data about the languages spoken and the number or proportion of limited or no-English proficient persons speaking a given language in the population that is served or encountered, or likely to be served or encountered, by the covered entity. A covered entity's databases and tracking applications shall contain fields that will capture this information during the fiscal year that this subchapter takes effect with respect to the covered entity pursuant to § 2-1936. If it is

demonstrated to the Office of Human Rights that this is not feasible due to budgetary constraints, a covered entity shall make all due efforts to comply with this paragraph by the beginning of the next fiscal year. All information collected under this section shall be provided to the Language Access Director and made available to the public, upon request, within a reasonable time.

(d) To the extent that a covered entity requires additional personnel to meet its requirement to provide oral language services based on the determination set forth in this section, the covered entity shall hire bilingual personnel into existing budgeted vacant public contact positions.

(June 19, 2004, D.C. Law 15-167, § 3, 51 DCR 4688.)

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1931.

§ 2-1933. Written language services by covered entity.

(a) A covered entity shall provide translations of vital documents into any non-English language spoken by a limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered, by the covered entity in the District of Columbia.

(b) If the provisions of this subchapter are contractually imposed on a non-covered entity, subsection (a) of this section shall apply.

(June 19, 2004, D.C. Law 15-167, § 4, 51 DCR 4688.)

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1931.

§ 2-1934. Additional obligations of covered entities with major public contact.

(a)(1) A covered entity with major public contact shall establish a language access plan, by regulation.

(2) Each language access plan shall be established in consultation with the Language Access Director, the D.C. Language Access Coalition, the entity's language access coordinator, and agency directors that conduct outreach to limited or no-English populations. Each language access plan shall be updated every 2 years and shall set forth, at minimum, the following:

(A) The types of oral language services that the entity will provide and how the determination was reached;

(B) The titles of translated documents that the entity will provide and how the determination was reached;

(C) The number of public contact positions in the entity and the number of bilingual employees in public contact positions;

(D) An evaluation and assessment of the adequacy of the services to be provided; and

(E) A description of the funding and budgetary sources upon which the covered entity intends to rely to implement its language access plan.

(3) In establishing and updating the language access plan, the entity shall consult with the sources of data set forth in § 2-1932(c)(1).

(b) A covered entity with major public contact shall designate a language access coordinator who shall report directly to the director of the entity and shall:

(1) Establish and implement the entity's language access plan in consultation with the Language Access Director, the D.C. Language Access Coalition, and the agency directors of government offices that conduct outreach to communities with limited or no-English proficient populations; and

(2) Conduct periodic public meetings with appropriate advance notice to the public.

(c) A covered entity with major public contact shall develop a plan to conduct outreach to communities with limited or no-English proficient populations about their language access plans and about the benefits and services to be offered under this subchapter.

(June 19, 2004, D.C. Law 15-167, § 5, 51 DCR 4688.)

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1931.

§ 2-1935. Language access oversight; duties of Language Access Director.

(a) The Office of Human Rights shall provide oversight, central coordination, and technical assistance to covered entities in their implementation of the provisions of this subchapter and ensure that the provision of services by covered entities meets acceptable standards of translation or interpretation.

(b) There shall be within the Office of Human Rights a Language Access Director to coordinate activities under this subchapter. The Language Access Director shall:

(1) Review and monitor each covered entity's language access plan for compliance with this subchapter and Title VI of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 252; 42 U.S.C. §§ 2000d through 2000d-7);

(2) Track, monitor, and investigate public complaints regarding language access violations at covered entities, and where necessary, issue written findings of noncompliance to the covered entities regarding failures to provide language access; provided, that this responsibility shall not supersede or preclude the existing individual complaint process and mechanism under the jurisdiction of the Office of Human Rights;

(3) Review and monitor the language access coordinators with respect to their performance of responsibilities under this subchapter;

(4) Consult with language access coordinators, the D.C. Language Access Coalition, and the heads of government offices that conduct outreach to communities with limited or no-English proficient populations;

(5) Serve as the language access coordinator for the Office of Human Rights; and

(6) Through the Mayor, by regulation, after consultation with the D.C.

Language Access Coalition, designate additional covered entities with major public contact.

(June 19, 2004, D.C. Law 15-167, § 6, 51 DCR 4688.)

Legislative history of Law 15-167. — For Authority for Rulemaking under the Language Access Act, see Mayor's Order 2007-127, May 31, 2007 (54 DCR 9065).

Delegation of Authority. — Delegation of

§ 2-1936. Phased implementation.

(a) This subchapter shall apply on June 19, 2004 to:

- (1) Department of Health;
- (2) Department of Human Services;
- (3) Department of Employment Services;
- (4) Metropolitan Police Department;
- (5) District of Columbia Public School System;
- (6) Office of Planning;
- (7) Fire and Emergency Medical Services; and
- (8) Office of Human Rights.

(b) This subchapter shall apply as of October 1, 2004 to:

- (1) Department of Housing and Community Development;
- (2) Department of Mental Health;
- (3) Department of Motor Vehicles;
- (4) Child and Family Services Agency;
- (5) Alcoholic Beverage Regulation Administration; and
- (6) Department of Consumer and Regulatory Affairs.

(c) This subchapter shall apply as of October 1, 2005, to:

- (1) Department of Parks and Recreation;
- (2) Office on Aging;
- (3) District of Columbia Public Library;
- (4) Office of Personnel;
- (5) Office of Contracting and Procurement;
- (6) Department of Corrections;
- (7) Department of Public Works; and
- (8) Office of Tax and Revenue.

(d) This subchapter shall apply as of October 1, 2006 to all covered entities.

(June 19, 2004, D.C. Law 15-167, § 7, 51 DCR 4688.)

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1931.

§ 2-1937. Inclusion in the budget and financial plan. [Repealed].

Repealed.

(June 19, 2004, D.C. Law 15-167, § 9, 51 DCR 4688; Aug. 16, 2008, D.C. Law 17-219, § 7047, 55 DCR 7598.)

Legislative history of Law 15-167. — For Law 15-167, see notes following § 2-1931.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 2-218.75.

TITLE 3. DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS.

SUBTITLE I. GENERAL.

Chapter

1. Advisory Commission on Sentencing.
2. Anatomical Board.
3. Armory Board.
4. Board of Funeral Directors.
5. Board of Veterinary Examiners.
6. Boxing and Wrestling Commission.
- 6A. Commission on Poverty.
- 6B. Commission on Fashion Arts and Events.
7. Commission for Women.
8. Council on Law Enforcement.
9. Criminal Justice Supervisory Board.
10. Environmental Planning Commission.
11. Fire Protection Study Commission.
12. Health Occupations Boards.
- 12A. Nurse's Rehabilitation Program.
13. Lottery and Charitable Games Control Board.
- 13A. Motor Vehicle Theft Prevention Commission.
14. Sports and Entertainment Commission [Repealed].
- 14A. District of Columbia Uniform Law Commission.
- 14B. Commission on African-American Affairs.

SUBTITLE II. REPEALED AND EXPIRED PROVISIONS.

15. Accountants [Repealed].
16. Architects [Repealed].
17. Barbers [Repealed].
18. Barbers and Cosmetologists [Repealed].
19. Bicentennial Commission [Repealed].
20. Cosmetologists [Repealed].
21. Dentistry [Repealed].
22. Interior Design Licensure [Repealed].
23. Nurses, Therapists, and Psychologists [Repealed].
24. Optometrists [Repealed].
25. Plumbers [Repealed].
26. Podiatry [Repealed].
27. Steam and Other Operating Engineers [Repealed].
28. Task Force on Hunger [Repealed].
29. Healing Arts Practice [Repealed].
30. Alzheimer's Disease Study Commission [Expired].
31. Business Regulatory Reform Commission [Expired].

Chapter

- 32. Commission on Baseball [Expired].
- 33. Domestic Partnership Benefits [Expired].
- 34. Commission on Housing Production [Expired].
- 35. Commission for Men [Expired].
- 36. Security Agents and Brokers [Repealed].
- 37. Investment Advisers [Repealed].

SUBTITLE I. GENERAL.

CHAPTER 1. ADVISORY COMMISSION ON SENTENCING.

Sec.

- 3-101. District of Columbia Sentencing and Criminal Code Revision Commission.
- 3-101.01. Criminal Code reform.
- 3-102. Membership of the Commission.
- 3-103. Meetings and hearings.

Sec.

- 3-104. Comprehensive study and reports.
- 3-105. Voluntary sentencing guidelines.
- 3-106. Analysis of correctional impact.
- 3-107. Budget and staffing.
- 3-108. Cooperation from other agencies.

§ 3-101. District of Columbia Sentencing and Criminal Code Revision Commission.

(a) The District of Columbia Sentencing and Criminal Code Revision Commission ("Commission") is established as an independent agency within the District of Columbia government, consistent with the meaning of the term "independent agency" as provided in § 1-603.01(13).

(b) In addition to the duties required under § 3-101.01, the Commission shall perform the following duties:

(1) Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court of the District of Columbia designed to achieve the goals of certainty, consistency, and adequacy of punishment, with due regard for the:

- (A) Seriousness of the offense;
- (B) Dangerousness of the offender;
- (C) Need to protect the safety of the community;
- (D) Offender's potential for rehabilitation; and
- (E) Use of alternatives to prison, where appropriate;

(2) Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the court and practitioners on sentencing and sentencing guideline issues;

(3) Review and analyze pertinent sentencing data and, where the information has not been provided in a particular case, ask the judge to specify the factors upon which he or she relied in departing from the guideline recommendations or for imposing what appears to be a noncompliant sentence;

(4) Conduct focus groups, community outreach, training, and other activities designed to collect and disseminate information about the guidelines;

(5) Review and research sentencing policies and practices locally and

nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia; and

(6) Consult with other District of Columbia, federal, and state agencies that are affected by or address sentencing issues.

(Oct. 16, 1998, D.C. Law 12-167, § 2, 45 DCR 5180; Oct. 3, 2001, D.C. Law 14-28, § 3802(a), 48 DCR 6981; Sept. 30, 2004, D.C. Law 15-190, § 2(a), 51 DCR 6737; June 16, 2006, D.C. Law 16-126, § 2(a), 53 DCR 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(a), 54 DCR 8014.)

Prior Codifications. — 1981 Ed., § 2-4201.

Effect of amendments. — D.C. Law 14-28 rewrote subsec. (a) which had read as follows: “(a) There is established the Advisory Commission on Sentencing (‘Commission’).”

D.C. Law 15-190, in the section heading and in subsec. (a), substituted “District of Columbia Sentencing Commission” for “Advisory Commission on Sentencing”.

D.C. Law 16-126, in section heading, substituted “Sentencing and Criminal Code Revision Commission” for “Sentencing Commission”; in subsec. (a), substituted “Sentencing and Criminal Code Revision Commission” for “Sentencing Commission”; and, in subsec. (b), substituted “In addition to the duties required under § 3-101.01, the Commission” for “The Commission”.

D.C. Law 17-25 rewrote subsec. (b).

Emergency legislation. — For temporary (90 day) amendment of section, see § 3402(a) of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

For temporary (90 day) amendment of section, see § 2(a) of Advisory Commission on Sentencing Structured Sentencing System Pilot Program Emergency Amendment Act of 2004 (D.C. Act 15-437, May 21, 2004, 51 DCR 5957).

For temporary (90 day) amendment of section, see § 2(a) of Advisory Commission on Sentencing Structured Sentencing System Pilot Program Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-510, August 2, 2004, 51 DCR 8967).

For temporary (90 day) amendment of section, see § 2(a) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amendment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

Legislative history of Law 12-167. — Law 12-167, the “Advisory Commission on Sentencing Establishment Act of 1998,” was introduced in Council and assigned Bill No. 12-550, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on July 1, 1998, it was assigned Act No. 12-410 and trans-

mitted to both Houses of Congress for its review. D.C. Law 12-167 became effective on October 16, 1998.

Legislative history of Law 14-28. — Law 14-28, the “Fiscal Year 2002 Budget Support Act of 2001,” was introduced in Council and assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

Legislative history of Law 15-190. — Law 15-190, the “Advisory Commission on Sentencing Structured Sentencing System Pilot Program Amendment Act of 2004,” was introduced in Council and assigned Bill No. 15-711, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 4, 2004, and June 1, 2004, respectively. Signed by the Mayor on June 23, 2004, it was assigned Act No. 15-457 and transmitted to both Houses of Congress for its review. D.C. Law 15-190 became effective on September 30, 2004.

Legislative history of Law 16-126. — Law 16-126, the “Advisory Commission on Sentencing Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-172 which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on March 7, 2006, and April 4, 2006, respectively. Signed by the Mayor on April 21, 2006, it was assigned Act No. 16-344 and transmitted to both Houses of Congress for its review. D.C. Law 16-126 became effective on June 16, 2006.

Legislative history of Law 17-25. — Law 17-25, the “District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007,” was introduced in Council and assigned Bill No. 17-137 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on June 21, 2007, and July 10, 2007, respectively. Signed by the Mayor on July 25, 2007, it was assigned Act No. 17-87 and transmitted to both Houses of Congress for its review. D.C. Law 17-25 became effective on October 18, 2007.

Editor's notes. — Applicability: Section 4 of D.C. Law 16-126 provided: "This act shall apply as of January 1, 2007."

§ 3-101.01. **Criminal Code reform.**

(a) Beginning January 1, 2007, the Commission shall also have as its purpose the preparation of comprehensive recommendations to the Council and the Mayor that:

- (1) Revise the language of criminal statutes to be clear and consistent;
- (2) In consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia, organize existing criminal statutes in a logical order;
- (3) Assess whether criminal penalties (including fines) for felonies are proportionate to the seriousness of the offense, and, as necessary, revise the penalties so they are proportionate;
- (4) Propose a rational system for classifying misdemeanor criminal statutes, determine appropriate levels of penalties for such classes; and classify misdemeanor criminal statutes in the appropriate classes;
- (5) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;
- (6) Identify criminal statutes that have been held to be unconstitutional;
- (7) Propose such other amendments as the Commission believes are necessary; and
- (8) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.

(b) No later than March 31, 2007, the Commission shall submit to the Council and the Mayor a work plan and schedule for carrying out the responsibilities authorized by this section. The work of the Commission under this section shall be completed no later than September 30, 2014.

(c) The Commission shall submit its recommendations for criminal code revisions in the form of reports. Each report shall be accompanied by draft legislation or other specific steps for implementing the recommendations for criminal code revisions.

(Oct. 16, 1998, D.C. Law 12-167, § 2a, as added June 16, 2006, D.C. Law 16-126, § 2(b), 53 DCR 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(b), 54 DCR 8014; Dec. 10, 2009, D.C. Law 18-88, § 202, 56 DCR 7413; Sept. 14, 2011, D.C. Law 19-21, § 3032, 58 DCR 6226.)

Effect of amendments. — D.C. Law 17-25, in subsec. (c), substituted "recommendations for criminal code revisions" for "recommendations".

D.C. Law 18-88, in subsec. (b), substituted "2012" for "2010".

D.C. Law 19-21, in subsec. (b), substituted "2014" for "2012".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amend-

ment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

For temporary (90 day) amendment of section, see § 202 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 202 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

Legislative history of Law 16-126. — For Law 16-126, see notes following § 3-101.

Legislative history of Law 17-25. — For Law 17-25, see notes following § 3-101.

Legislative history of Law 18-88. — Law 18-88, the “Omnibus Public Safety and Justice Amendment Act of 2009”, as introduced in Council and assigned Bill No. 18-151, which was referred to the Committee on Public Safety and the Judiciary. The bill as adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 26, 2009, it was assigned Act No. 18-189 and transmitted to both Houses of Congress for its review. D.C. Law 18-88 became effective on December 10, 2009.

Legislative history of Law 19-21. — Law

19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

Short title. — Short title: Section 3031 of D.C. Law 19-21 provided that subtitle D of title III of the act may be cited as “Criminal Code Reform Extension Amendment Act of 2011”.

Editor’s notes. — Applicability: Section 4 of D.C. Law 16-126 provided: “This act shall apply as of January 1, 2007.”

§ 3-102. Membership of the Commission.

(a) The Commission shall consist of 15 voting members and 5 nonvoting members as follows:

(1) The voting members of the Commission shall consist of the following:

(A) Three judges of the Superior Court of the District of Columbia, appointed by the Chief Judge of the Superior Court;

(B) Repealed;

(C) The United States Attorney for the District of Columbia or his or her designee;

(D) The Director of the D.C. Public Defender Service or his or her designee;

(E) The Attorney General for the District of Columbia or his or her designee;

(F) The Director of the Court Services and Offender Supervision Agency for the District of Columbia or his or her designee;

(G) Two members of the District of Columbia Bar, one who specializes in the private practice of criminal defense in the District of Columbia, and one who does not specialize in the practice of criminal law, appointed by the Chief Judge of the Superior Court in consultation with the President of the District of Columbia Bar;

(H) A professional from an established organization devoted to research and analysis of sentencing issues and policies, appointed by the Chief Judge of the Superior Court of the District of Columbia;

(I) Two citizens of the District of Columbia who are not attorneys, one of whom is nominated by the Mayor subject to confirmation by the Council, and the other who is appointed by the Council; and

(J) Three professionals from established organizations, to include institutions of higher education, devoted to the research and analysis of criminal justice issues, appointed by the Council.

(2) The non-voting members of the Commission shall consist of the following:

(A) The Director of the District of Columbia Department of Corrections or his or her designee;

(B) The Chief of the Metropolitan Police Department or his or her designee;

(C) The Director of the United States Bureau of Prisons or his or her designee;

(D) The Chairperson of the United States Parole Commission or his or her designee; and

(E) The chairperson of the Council committee that has oversight of the Commission within its purview.

(b) The appointment of members designated by subsection (a)(1)(G), (H), (I), and (J) of this section shall be made in accordance with the following provisions:

(1) Each member shall be appointed for a term of 3 years, and shall continue to serve during that time as long as the member remains eligible for the appointment.

(2) A member may be reappointed.

(3) A person appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

(4) A member may be removed only for incompetence, neglect of duty, or misconduct.

(c) The voting members of the Commission shall elect a Chairperson.

(d) Members of the Commission shall serve without compensation, except that the citizen members of the Commission may be compensated at an amount not to exceed \$15.00 each day or part thereof for reasonable expenses incurred in the performance of their official duties.

(Oct. 16, 1998, D.C. Law 12-167, § 3, 45 DCR 5180; June 16, 2006, D.C. Law 16-126, § 2(c), 53 DCR 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(c), 54 DCR 8014.)

Prior Codifications. — 1981 Ed., § 2-4202.

Effect of amendments. — D.C. Law 16-126, in the lead-in language of subsec. (a), substituted “15” for “13”, and substituted “5” for “4”; repealed subsec. (a)(1)(B); in subsec. (a)(1)(H), deleted “; and” at the end; in subsec. (a)(1)(I), substituted “; and” for a period; added subsec. (a)(1)(J); in subsec. (a)(2)(C), deleted “; and” at the end; in subsec. (a)(2)(D), substituted “; and” for a period; and added subsec. (a)(2)(E). Prior to repeal, subsec. (a)(1)(B) read as follows: “(B) One member of the Council, appointed by the Chairman of the Council;”.

D.C. Law 17-25, in subsec. (a)(1)(E), substituted “Attorney General” for “Corporation Counsel”; and rewrote subssecs. (a)(1)(F), (a)(2)(E), and (b).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(c) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amendment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

Legislative history of Law 16-126. — For Law 16-126, see notes following § 3-101.

Legislative history of Law 17-25. — For Law 17-25, see notes following § 3-101.

Editor’s notes. — Applicability: Section 4 of D.C. Law 16-126 provided: “This act shall apply as of January 1, 2007.”

§ 3-103. Meetings and hearings.

(a) The Commission shall meet as necessary to conduct its official business.

(b) A majority of the voting members shall constitute a quorum.

(c) The Commission may act by an affirmative vote of at least 8 of its voting members.

(d) The Commission may conduct public hearings, receive testimony, and call witnesses to assist the Commission in the exercise of its powers.

(e) The Chairperson is authorized to administer an oath or affirmation to each witness.

(Oct. 16, 1998, D.C. Law 12-167, § 4, 45 DCR 5180; Oct. 18, 2007, D.C. Law 17-25, § 2(d), 54 DCR 8014.)

Prior Codifications. — 1981 Ed., § 2-4203.

Effect of amendments. — D.C. Law 17-25, in subsec. (c), substituted “8” for “7”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amend-

ment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

Legislative history of Law 17-25. — For Law 17-25, see notes following § 3-101.

§ 3-104. Comprehensive study and reports.

(a) No later than September 30, 1999, the Commission shall submit to the Council a comprehensive study of criminal sentencing practices in the District of Columbia, including, but not limited to, a report on the length of sentences imposed, the length of sentences served, the proportion of offenders released upon their first parole eligibility date, and an assessment of the impact on sentence length and sentencing disparities likely to result from implementation of the Truth in Sentencing Amendment Act of 1998, effective October 10, 1998 (D.C. Law 12-165; 45 DCR 2980).

(b) No later than April 5, 2000, the Commission shall submit to the Council its report containing its recommendations consistent with its purposes. The Commission’s report shall include, but is not limited to, the following:

(1) A report on sentencing and release practices in the District of Columbia;

(2) A recommendation as to whether determinate sentencing should be extended to all felonies, or to additional criminal offenses under District of Columbia law beyond those specified in § 24-112(h);

(3) A recommendation as to appropriate limits and conditions on terms of supervised release, including whether there should be a mechanism for changing the length of a term of supervised release after its imposition, and any considerations that should apply with respect to the ratio between a prison term of sentence and a supervised release term;

(4) A projection of the impact, if any, on the size of the District’s correctional and supervised offender populations of the implementation of each measure proposed by the Commission;

(5) A recommendation regarding the appropriate length of life sentences for offenses under the determinate sentencing system;

(6) An assessment of the intermediate sanctions currently available in the District’s criminal justice system;

(7) A recommendation for intermediate sanctions that should be made available in the District of Columbia’s criminal justice system, including

proposals for alternatives to incarceration for suitable offenders, the estimated cost of such programs, and recommendations for rules or principles to guide a judge's imposition of intermediate sanctions as part of a criminal sentence; and

(8) A recommendation as to whether multiple sentences should run concurrently or consecutively, and what guidance, if any, should be provided regarding the imposition of consecutive sentences.

(c) Repealed.

(d) Starting in 2008, the Commission shall file a report with the Council on or before April 30 of each calendar year that:

(1) Contains an analysis of the sentences imposed in the preceding calendar year, including:

(A) The rate of compliance with the guidelines;

(B) The number and extent of any departures from the guidelines; and

(C) The reasons given for those departures;

(2) Describes any substantive changes made to the guidelines during the preceding year, including changes in the:

(A) Recommended sentencing options or prison ranges;

(B) Ranking of particular offenses; or

(C) Rules for scoring criminal history; and

(3) Informs the Council how it has ranked any new felony offense or reranked any existing felony offense because of a statutory change or for another reason, and the resulting guideline sentencing options and prison range for each such an offense.

(Oct. 16, 1998, D.C. Law 12-167, § 5, 45 DCR 5180; Oct. 18, 2007, D.C. Law 17-25, § 2(e), 54 DCR 8014.)

Prior Codifications. — 1981 Ed., § 2-4204.

Effect of amendments. — D.C. Law 17-25 repealed subsec. (c); and added subsec. (d). Prior to repeal, subsec. (c) read as follows: "(c) The Commission shall submit an annual report to the Council within 60 days of the end of each fiscal year summarizing the activities of the Commission and including such further recommendations to the Council as may be appropriate."

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(e) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amendment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

Legislative history of Law 17-25. — For Law 17-25, see notes following § 3-101.

§ 3-105. Voluntary sentencing guidelines.

(a) The voluntary sentencing guidelines promulgated by the Commission shall not be binding on judges.

(b) Notwithstanding the guidelines, the judge in an individual case may impose any sentence that does not exceed the maximum term prescribed by law and is not otherwise prohibited by the Constitution or laws of the United States or the District of Columbia.

(c) The sentencing guidelines shall not create any legally enforceable rights in any party nor shall they diminish any rights that currently exist.

(d) The Commission shall not implement any changes in the basic structure of the voluntary sentencing guidelines without first informing the Council.

(Oct. 16, 1998, D.C. Law 12-167, § 6, 45 DCR 5180; June 8, 2001, D.C. Law 13-302, § 2, 47 DCR 7249; Sept. 30, 2004, D.C. Law 15-190, § 2(b), 51 DCR 6737; Oct. 18, 2007, D.C. Law 17-25, § 2(f), 54 DCR 8014.)

Prior Codifications. — 1981 Ed., § 2-4205.

Effect of amendments. — D.C. Law 13-302 rewrote the section which had read:

“If the Commission recommends a system of sentencing guidelines as part of its report, any such recommendation shall:

“(1) Specify whether and under what circumstances to impose a sentence of probation, a term of imprisonment, and a fine, and the amount or length of each;

“(2) Provide for the application of intermediate sanctions in appropriate cases;

“(3) Include provisions for such appeal rights from sentencing determinations as may be appropriate or constitutionally required.”

D.C. Law 15-190 added subsec. (e).

D.C. Law 17-25 rewrote the section.

Emergency legislation. — For temporary (90-day) amendment of section, see § 2 of the Sentencing Reform Emergency Amendment Act of 2000 (D.C. Act 13-410, August 11, 2000, 47 DCR 7271).

For temporary (90 day) amendment of section, see § 2 of the Sentencing Reform Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-462, November 7, 2000, 47 DCR 9443).

For temporary (90 day) amendment of section, see § 2 of Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239).

For temporary (90 day) amendment of section, see § 2 of Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

For temporary (90 day) amendment of section, see § 2(b) of Advisory Commission on Sentencing Structured Sentencing System Pilot Program Emergency Amendment Act of 2004 (D.C. Act 15-437, May 21, 2004, 51 DCR 5957).

For temporary (90 day) amendment of section, see § 2(b) of Advisory Commission on Sentencing Structured Sentencing System Pilot Program Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-510, August 2, 2004, 51 DCR 8967).

For temporary (90 day) amendment of section, see § 2(f) of District of Columbia Sentencing and Criminal Code Revision Commission Emergency Amendment Act of 2007 (D.C. Act 17-72, July 20, 2007, 54 DCR 7401).

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

Legislative history of Law 13-302. — Law 13-302, the “Sentencing Reform Amendment Act of 2001”, was introduced in Council and assigned Bill No. 13-696, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-406 and transmitted to Both Houses of Congress for its review. D.C. Law 13-302 became effective on June 8, 2001.

Legislative history of Law 15-190. — For Law 15-190, see notes following § 3-101.

Legislative history of Law 17-25. — For Law 17-25, see notes following § 3-101.

CASE NOTES

Review.

Sentences within maximum term prescribed by law were not reviewable on appeal on grounds that they were not compliant with nonbinding sentencing guidelines. *Speaks v. United States*, 959 A.2d 712, 2008 D.C. App. LEXIS 429 (2008).

Court of Appeals would decline to review trial court’s decision that victim’s transgender status signified “reduced physical capacity” for

purposes of voluntary sentencing guidelines in prosecution for first-degree sexual abuse of a ward; guidelines were entirely voluntary, and trial court judges were free to apply or ignore them as they saw fit without interference by Court of Appeals. *R.W. v. United States*, 958 A.2d 259, 2008 D.C. App. LEXIS 417 (2008), writ of certiorari denied by 558 U.S. 902, 130 S. Ct. 260, 175 L. Ed. 2d 176, 2009 U.S. LEXIS 5869, 78 U.S.L.W. 3178 (2009).

§ 3-106. Analysis of correctional impact.

Any recommendations by the Commission for regulatory changes or legislative amendments relating to crime, sentencing, or correctional matters shall take into consideration existing correctional and supervisory resources, including the availability of intermediate sanctions, and shall be accompanied by an

assessment of the impact, if any, on the size of the District's correctional and supervised offender population resulting from such change. The Commission shall not recommend such changes unless it has made an assessment that the costs of a recommended change would be commensurate with the benefits to criminal justice administration, without regard to the identity of the particular governmental body responsible for financing the correctional facilities or services at issue.

(Oct. 16, 1998, D.C. Law 12-167, § 7, 45 DCR 5180.)

Prior Codifications. — 1981 Ed., § 2-4206. legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.
Legislative history of Law 12-167. — For

§ 3-107. Budget and staffing.

(a) There are authorized such funds as may be necessary to support the Commission.

(b) The Commission has the authority to hire staff and to obtain appropriate office space, equipment, materials, and services necessary to carry out its responsibilities. The Commission shall serve as the personnel authority for all employees of the Commission. Except as provided in subsection (d) of this section, the provisions of Chapter 6 of Title 1 shall apply to the Commission.

(c) Any entitlement to compensation under this chapter for services rendered shall be dependent upon the availability of appropriated funds to pay such compensation.

(d) Employees of the Commission who were hired before October 3, 2001, shall be exempt from the requirement that they be residents of the District of Columbia. Any person hired after October 3, 2001, shall be, or shall become with 180 days of hire, a resident of the District of Columbia. The Director of Personnel may waive the residency requirement for any individual appointed to a hard-to-fill position under this section.

(Oct. 16, 1998, D.C. Law 12-167, § 8, 45 DCR 5180; Oct. 3, 2001, D.C. Law 14-28, § 3802(b), 48 DCR 6981.)

Prior Codifications. — 1981 Ed., § 2-4207.

Effect of amendments. — D.C. Law 14-28 rewrote subsec. (b) which had read as follows: "(b) The Commission has the authority to hire staff and to obtain appropriate office space, equipment, materials, and services necessary to carry out its responsibilities."

Emergency legislation. — For temporary (90 day) amendment of section, see § 3402(b) of

Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

Legislative history of Law 14-28. — For Law 14-28, see notes following § 3-101.

§ 3-108. Cooperation from other agencies.

Agencies of the District of Columbia government shall cooperate in providing such information to the Commission as may be necessary to fulfill its statutory responsibilities.

(Oct. 16, 1998, D.C. Law 12-167, § 9, 45 DCR 5180.)

Cross references. — Anatomical Gift Act, see § 7-1521.01 et seq.

Cemetery associations, regulations, construction of law, see § 43-131.

Human tissue banks, application of law, see § 7-1541.06.

Prior Codifications. — 1981 Ed., § 2-4208.

Legislative history of Law 12-167. — For legislative history of D.C. Law 12-167, see Historical and Statutory Notes following § 3-101.

CHAPTER 2. ANATOMICAL BOARD.

Sec.	Sec.
3-201. Anatomical Board created; purpose; composition; bylaws; officers and agents; records.	3-205. Bodies to be used in District; duty of persons receiving bodies; disposal of remains.
3-202. Dead bodies for burial at public expense to be reported to Board; removal; exceptions.	3-206. Unlawful acts.
3-203. Receipt of bodies; distribution; notice.	3-207. Bodies to be delivered at expense of receiving institutions.
3-204. Bond furnished by school receiving bodies.	3-208. [Repealed].
	3-209. Prosecutions.

§ 3-201. Anatomical Board created; purpose; composition; bylaws; officers and agents; records.

There shall be, and is hereby created, in and for the District of Columbia, a board for the control of the dead human bodies hereinafter described, and for the distribution of such bodies among and to the schools in said District conferring the degree of doctor of medicine, doctor of dental surgery, or associate in applied science in mortuary science; the Post Graduate School of Medicine, incorporated by an Act of Congress, approved February 7, 1896, entitled "An Act to incorporate the Post Graduate School of Medicine of the District of Columbia"; the medical schools of the United States Army, Air Force, and Navy; the medical examining boards of the United States Army, Air Force, Navy, and Public Health Service; and the Commission on Licensure for the Practice of the Healing Arts. Said board shall be known as the "Anatomical Board of the District of Columbia," and shall consist of the Director of the Department of Human Services of said District and 2 representatives from each school aforesaid actually engaged in teaching, to be selected by and from the faculty thereof in accordance with the bylaws of such faculty, except in the case of the medical schools of the United States Army, Air Force, and Navy, the representatives from which shall be selected and detailed by the Surgeon General of the Army, the Surgeon General of the Air Force, and the Surgeon General of the Navy. Said Anatomical Board shall have full power to establish bylaws for its government and to appoint and to remove proper officers and agents, and shall keep full and complete records of its transactions and of all material facts pertaining to the receipt and distribution of bodies. Said records shall be open at all times for inspection by any member of said Anatomical Board and by the United States Attorney for the District of Columbia.

(Apr. 29, 1902, 32 Stat. 173, ch. 638, § 1; Aug. 14, 1912, 37 Stat. 309, ch. 288; Feb. 27, 1929, 45 Stat. 1326, ch. 352; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Mar. 10, 1983, D.C. Law 4-199, § 8(a), 30 DCR 119.)

Prior Codifications. — 1981 Ed., § 2-1401. 1973 Ed., § 2-201.

Legislative history of Law 4-199. — Law 4-199, the "Christmas Tree Act of 1982," was introduced in Council and assigned Bill No. 4-427, which was referred to the Committee on Human Services. The Bill was adopted on first

and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-283 and transmitted to both Houses of Congress for its review.

Transfer of Functions. — All functions of the Public Health Service and of all officers and

employees thereof and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by 1966 Reorganization Plan No. 3, 80 Stat. 1610. The functions of the Department of Health, Education, and Welfare were transferred to the Department of Health and Human Services by the Act of October 17, 1979, 93 Stat. 675, Pub. L. 96-88, § 509.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

Editor's notes. — Commission on Licensure to Practice the Healing Art abolished: The Commission on Licensure to Practice the Healing Art in the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. Section 402(34) of Reorganization Plan No. 3 of 1967 transferred the regulatory and other functions of the Board of Commissioners under this section, insofar as they relate to making and altering rules and adopting a common seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by § 406 of the Plan. Section 401 of the Plan transferred all other functions of the Board of Commissioners under this section to the Commissioner of the District of Columbia. The functions delegated to the Department of Occupations and Professions were subse-

quently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Anatomical Board abolished: The Anatomical Board was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, established, under the direction and control of a Commissioner, a Department of Public Health headed by a Director, and reestablished the Anatomical Board under the direction and control of the Director of Public Health. Reorganization Order No. 57 was combined with Reorganization Order No. 52 and redesignated Organization Order No. 141, dated February 11, 1964. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Department of Public Health under Organization Order No. 141 were transferred to the Department of Human Resources by Commissioner's Order No. 69-96. The Department of Public Health was replaced by Commissioner's Order No. 70-83, dated March 6, 1970, which Order established the Department of Human Resources. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which established the Department of Human Services.

§ 3-202. Dead bodies for burial at public expense to be reported to Board; removal; exceptions.

Every public officer, agent, and servant, and every officer, agent, and servant of any and every almshouse, prison, jail, asylum, morgue, hospital, and other public institutions and offices having charge or control of dead human bodies requiring to be buried at public expense, shall notify said Anatomical Board, or such person as may be designated by the said Board, whenever any dead human body comes into his possession, charge, or control for burial at public expense. And every such officer, agent, and servant shall, upon application by said Anatomical Board or its agent, without fee or reward, and complying with the laws and regulations governing the removal of dead human bodies in the District of Columbia, deliver every such body to said Board and permit said Board or its agent to take and remove the same. The notice aforesaid shall be given in writing and forwarded to said Anatomical Board within 24 hours after said officer, agent, or servant comes into possession, charge, or control of such body for burial, and shall include such material information as said Board may designate. But no such body shall be delivered if the deceased person, during

his last illness, without suggestion or solicitation, requested to be buried or cremated; or if within the time specified above and before the actual delivery thereof any person claiming to be and satisfying the officer in charge of such body that he is of kindred or is related by marriage or domestic partnership, as that term is defined in § 32-701(4), to the deceased shall claim the said body for burial or cremation, or request in writing that it be buried at public expense; or if within the time specified above and before actual delivery any person claiming to be and satisfying the officer in charge of said body that he is a friend of the deceased arranges to have the same properly buried or cremated without expense to the District; or if the deceased person was a traveler who died suddenly; but in any such case said body shall be buried or delivered to said applicant for burial.

(Apr. 29, 1902, 32 Stat. 173, ch. 638, § 2; Sept. 12, 2008, D.C. Law 17-231, § 8, 55 DCR 6758.)

Cross references. — Funeral and burial expenses, children in foster care or committed to the Youth Services Administration, see § 4-214.03.

Prior Codifications. — 1981 Ed., § 2-1402. 1973 Ed., § 2-202.

Effect of amendments. — D.C. Law 17-231 substituted “marriage or domestic partnership, as that term is defined in § 32-701(4),” for “marriage”.

Legislative history of Law 17-231. — Law 17-231, the “Omnibus Domestic Partnership

Equality Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-135, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on June 6, 2008, it was assigned Act No. 17-403 and transmitted to both Houses of Congress for its review. D.C. Law 17-231 became effective on September 12, 2008.

Editor’s notes. — Anatomical Board abolished: See note to § 3-201.

CASE NOTES

In general.

The time period provided in the municipal regulations (22 DCMR § 2407.1) is the minimum time period, rather than the maximum time period, for which the Chief Medical Examiner must hold an unclaimed body to allow family to claim the body. *Community for Creative Non-Violence v. Gray*, 121 WLR 557 (Super. Ct. 1993).

If the statutory duties imposed by statute upon the Chief Medical Examiner have not been accomplished within the period after which the body should be released, there is a legitimate reason for delay. *Community for Creative Non-Violence v. Gray*, 121 WLR 557 (Super. Ct. 1993).

§ 3-203. Receipt of bodies; distribution; notice.

The said Anatomical Board may receive the bodies reported to it as aforesaid, and may distribute and deliver such as are received among and to such of the schools and boards entitled thereto as request in writing to receive the same, except as otherwise expressly directed in this chapter. Each such school and board shall receive annually, as nearly as may be practicable, such proportion of the entire number of bodies distributed as the number of students enrolled and in regular attendance at such school, and the number of candidates appearing for examination before such board, respectively, engaged bona fide at such school, or examined by said board in dissecting, and operative surgery on the cadaver, bears to the total number of students so enrolled in attendance, and engaged, and of persons so examined, in the District of

Columbia. The secretary, dean, or other proper officer of each such school and board shall report to said Anatomical Board the names of all such students in attendance at such school or persons examined by said board, as the case may be, at such times and in such form as said Board may direct. All bodies shall be delivered among such schools and boards in regular order so as to maintain, as nearly as may be practicable, an equitable allotment at all times; and bodies assigned to any school or board in regular order and refused by such school or board without sufficient cause shall be charged against the quota of such school or board in such manner as not to prejudice any other school or board. But no body shall be delivered to any school or board unless within not less than 24 hours prior to such delivery notice of the death has been given by said Anatomical Board to the nearest known kinsman, relative by marriage, or friend of the deceased, or if none such be known, published by said Anatomical Board at least once in a daily newspaper published in the City of Washington, District of Columbia. The notice required by this section shall be deemed to have been given if served in writing on the person to be notified, or if left at his usual place of residence with some adult person residing therein, or a member of the family of such person. Said Board shall take receipts by name, or, if the name be unknown, by a description, for each body delivered; all receipts so obtained by said Board shall be properly filed by it.

(Apr. 29, 1902, 32 Stat. 174, ch. 638, § 3.)

Cross references. — Movement or disposal of tissue taken from dead bodies, see § 43-119

Prior Codifications. — 1981 Ed., § 2-1403.

1973 Ed., § 2-203.

Editor's notes. — Anatomical Board abolished: See note to § 3-201.

§ 3-204. Bond furnished by school receiving bodies.

No school except the medical schools of the United States Army, Air Force, and Navy shall receive any body under the provisions of this chapter until said school has given bond to the District of Columbia, and the Mayor of the District of Columbia has approved such bond, which said bond shall be in the penal sum of \$200 and conditioned that all bodies which said school shall receive shall be used in said District and only for the promotion of the medical, dental, or mortuary sciences.

(Apr. 29, 1902, 32 Stat. 174, ch. 638, § 4; Mar. 10, 1983, D.C. Law 4-199, § 8(b), 30 DCR 119.)

Prior Codifications. — 1981 Ed., § 2-1404. 1973 Ed., § 2-204.

Legislative history of Law 4-199. — For legislative history of D.C. Law 4-199, see Historical and Statutory Notes following § 3-201.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)),

appropriate changes in terminology were made in this section.

§ 3-205. Bodies to be used in District; duty of persons receiving bodies; disposal of remains.

It shall be the duty of each and every officer, agent, and employee of every school and board receiving bodies under the provisions of this chapter to see that such bodies are used in the District of Columbia and for the promotion of the medical, dental, or mortuary sciences, and for no other purpose whatsoever, and that after being so used the remains thereof are disposed of in accordance with law.

(Apr. 29, 1902, 32 Stat. 174, ch. 638, § 5; Mar. 10, 1983, D.C. Law 4-199, § 8(c), 30 DCR 119.)

Prior Codifications. — 1981 Ed., § 2-1405. 1973 Ed., § 2-205.

legislative history of D.C. Law 4-199, see Historical and Statutory Notes following § 3-201.

Legislative history of Law 4-199. — For

§ 3-206. Unlawful acts.

Any person who shall, in the District of Columbia, sell or buy any body aforesaid, or in any way traffic therewith, or transmit or convey any such body to any place outside of said District, or cause or procure any such body to be so transmitted or conveyed, or who shall, in said District, disturb or remove, without legal permit, any body from any grave or vault, shall, on conviction thereof, be fined not more than \$200 or imprisoned in the Workhouse of said District for not more than 1 year.

(Apr. 29, 1902, 32 Stat. 175, ch. 638, § 6.)

Cross references. — Buying and selling dead bodies, penalties, see § 22-3303.

Prior Codifications. — 1981 Ed., § 2-1406. 1973 Ed., § 2-206.

§ 3-207. Bodies to be delivered at expense of receiving institutions.

Neither the United States nor the District of Columbia, nor any officer, agent, or servant thereof, shall be at any expense by reason of the delivery of any body or bodies aforesaid, except such as may be properly chargeable on account of bodies delivered to the medical schools of the Army, Air Force, and Navy, the medical examining boards of the Army, the Air Force, the Navy, and the Public Health Service, and the Commission on Licensure to the Practice of the Healing Art; but all expenses of such delivery and distribution, except as hereinbefore specified, and of said Anatomical Board, shall be paid by the schools receiving such bodies, in such manner as may be specified by said board and by such school in proportion to the number of bodies which it has received; and no school which has failed or refused to pay its just proportion of such expense as determined by said board shall be allowed to receive any body or bodies, or parts thereof, while the amount so due remains unpaid.

(Apr. 29, 1902, 32 Stat. 175, ch. 638, § 7; Aug. 14, 1912, 37 Stat. 309, ch. 288; Feb. 27, 1929, 45 Stat. 1326, ch. 352.)

Prior Codifications. — 1981 Ed., § 2-1407. 1973 Ed., § 2-207.

Transfer of Functions. — All functions of the Public Health Service and of all officers and employees thereof and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by 1966 Reorganization Plan No. 3, 80 Stat. 1610. The functions of the Department of Health, Education, and Welfare were transferred to the Department of Health and Human Services by the Act of October 17, 1979, 93 Stat. 675, Pub. L. 96-88, § 509.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

Editor's notes. — Commission on Licensure to Practice the Healing Art abolished: The Commission on Licensure to Practice the Healing Art in the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952.

The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. Section 402(34) of Reorganization Plan No. 3 of 1967 transferred the regulatory and other functions of the Board of Commissioners under this section, insofar as they relate to making and altering rules and altering and adopting a common seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by § 406 of the Plan. Section 401 of the Plan transferred all other functions of the Board of Commissioners under this section to the Commissioner of the District of Columbia. The functions delegated to the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Anatomical Board abolished: See note to § 3-201.

§ 3-208. Wilful neglect, refusal, or failure to perform duties. [Repealed].

Repealed.

(Apr. 29, 1902, 32 Stat. 175, ch. 638, § 8; Apr. 29, 2004, D.C. Law 15-154, § 2, 50 DCR 10996.)

Prior Codifications. — 1981 Ed., § 2-1408. 1973 Ed., § 2-208.

Legislative history of Law 15-154. — Law 15-154, the "Elimination of Outdated Crimes Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-79, which was referred to Committee on the Judiciary. The

Bill was adopted on first and second readings on October 7, 2003, and November 4, 2003, respectively. Signed by the Mayor on November 25, 2003, it was assigned Act No. 15-255 and transmitted to both Houses of Congress for its review. D.C. Law 15-154 became effective on April 29, 2004.

§ 3-209. Prosecutions.

All prosecutions under this chapter shall be in the Superior Court of the District of Columbia, on information brought in the name of said District on its behalf.

(Apr. 29, 1902, 32 Stat. 175, ch. 638, § 9; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 78, Pub. L. 88-60, § 6; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a).)

Prior Codifications. — 1981 Ed., § 2-1409.

1973 Ed., § 2-209.

CHAPTER 3. ARMORY BOARD.

Subchapter I. General Provisions

Sec.

- 3-301. Declaration of policy.
- 3-302. Establishment; composition; term of office; alternates; compensation; election of Chairman.
- 3-303. Control of and jurisdiction over Armory; maintenance and repair.
- 3-304. Motor vehicle parking areas.
- 3-305. Use of Armory by National Guard.
- 3-306, 3-307. [Repealed].
- 3-308. Transfer of assets held in various funds.
- 3-309. [Repealed].
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Subchapter II. Robert F. Kennedy Memorial Stadium

- 3-321. [Repealed].
- 3-322. Authorization of Secretary of Interior.
- 3-323. Bonds; issuance; rate of interest; registration; redemption; refinancing; sale; exemption from taxation.

Sec.

- 3-324, 3-325. [Repealed].
- 3-325. [Repealed].
- 3-326. Title to Stadium to vest in United States; date; conveyance and lease to District of Columbia; non-transferability; uses of property; reversion for noncompliance.
- 3-327 to 3-329. [Repealed].
- 3-330. "Stadium" defined.

Subchapter III. Public Safety at Stadium and Armory

- 3-341, 3-342. [Repealed].
- 3-342.01. Definitions.
- 3-343. Establishment of barriers or restricted zones by Chief of Police.
- 3-343.01. Possession of disposable containers prohibited; exceptions.
- 3-343.02. Unauthorized entry onto stadium playing field prohibited.
- 3-344. Penalty for violation of subchapter.

Subchapter I. General Provisions.

§ 3-301. Declaration of policy.

It is hereby declared to be the policy of the Congress that the District of Columbia National Guard Armory shall be maintained and operated primarily to provide facilities for the quartering and training of the District of Columbia National Guard, and, secondarily, to provide suitable facilities for major athletic events, conventions, concerts, such other activities as may be in the interest of the District of Columbia, including, but not limited to, the provision of emergency protection when the temperature falls below 32 degrees Fahrenheit, and that such Armory shall be operated as nearly as practicable on a self-supporting basis.

(June 4, 1948, 62 Stat. 339, ch. 418, § 1; Mar. 16, 1989, D.C. Law 7-204, § 3, 36 DCR 454; Oct. 22, 2005, D.C. Law 16-35, § 32(c), (e), 52 DCR 8113.)

Prior Codifications. — 1981 Ed., § 2-301.
1973 Ed., § 2-1701.

Effect of amendments. — D.C. Law 16-35 substituted "such other activities as may be in the interest of the District of Columbia, including, but not limited to, the provision of emergency protection when the temperature falls below 32 degrees Fahrenheit," for "such other activities as may be in the interest of the District of Columbia,".

Legislative history of Law 7-204. — Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-401, which was

referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-275 and transmitted to both Houses of Congress for its review.

Legislative history of Law 16-35. — Law 16-35, the "Homeless Services Reform Act of 2005," was introduced in Council and assigned Bill No. 16-103 which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 7, 2005, and July 6, 2005, respectively. Signed by

the Mayor on August 3, 2005, it was assigned Act No. 16-169 and transmitted to both Houses of Congress for its review. D.C. Law 16-35 became effective on October 22, 2005.

References in text. — The National Guard, referred to in this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

Construction of Law 7-204. — Section 7 of D.C. Law 7-204 provided that nothing in the act shall be construed to reduce the rights recognized by subchapter I of Chapter 6 of Title 3 [subchapter I of Chapter 7 of Title 4, 2001 Ed.].

Transfer of Functions. — Transfer of non-military functions to Sports Commission: Section 19 of D.C. Law 10-152, provided, in part, that the Sports Commission shall assume all nonmilitary functions of the Armory Board as are set forth in § 2-306 § 3-306, 2001 Ed. and that all references to the Armory Board in subchapter II of Chapter 3 of Title 2 subchapter

II of Chapter 3 of Title 3, 2001 Ed. are intended to be references to the Sports Commission unless the clear meaning requires otherwise.

Editor's notes. — Section 2 of D.C. Law 10-206 amended § 19 of D.C. Law 10-152 by adding (e) and (f) which contain provisions authorizing the Armory Board to exercise its nonmilitary functions and authority on an interim basis and ratifying actions taken during the interim period.

Appropriations authorized: Public Law 104-194, 110 Stat. 2363, the District of Columbia Appropriations Act, 1997, provided for the Starplex Fund, \$8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by this subchapter and subchapter II of this chapter: Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by [§ 47-301(b) § 1-204.42, 2001 Ed.].

CASE NOTES

In general.

Section of District of Columbia code providing that District of Columbia National Guard armory shall be maintained primarily for quartering and training of militia and secondarily to provide suitable facilities for certain events is subordinate to general federal statute declaring that National Guard is an integral part of the first line defense of the United States and that it must be maintained and assured at all times. D.C. Code § 2-1701; 32 U.S.C. § 102. *Jones v. District of Columbia Armory Board*, 438 F.2d 138, 1970 U.S. App. LEXIS 6681 (C.A.D.C. 1970).

Decision of District of Columbia National Guard Armory Board refusing to rent armory to organization on ground that organization would be at the vortex of any civil disturbance which might arise necessitating mobilization of the National Guard and its direction from the armory was reasonable, and Board was not

required to repeat past mistakes of renting armory to groups at time when Guard was mobilized, and the refusal to rent armory did not deny free speech and assembly or equal protection of the law. D.C. Code §§ 2-1701, 39-501 et seq.; 32 U.S.C. § 102. *Jones v. District of Columbia Armory Board*, 438 F.2d 138, 1970 U.S. App. LEXIS 6681 (C.A.D.C. 1970).

Congress did not authorize District of Columbia Armory Board to be sued, and personal injury plaintiff's failure to notify District's mayor within six months of injury thus compelled dismissal; although Board had been captioned in other litigation and apparently had never challenged its amenity to suit, relevant statutory provisions revealed no clear intent by Congress to establish Armory Board as sui juris. D.C. Code 1981, §§ 2-301, 2-321, 2-324(2, 6, 8, 9), 2-344, 12-309. *Simmons v. District of Columbia Armory Bd.*, 656 A.2d 1155, 1995 D.C. App. LEXIS 81 (1995).

§ 3-302. Establishment; composition; term of office; alternates; compensation; election of Chairman.

There is established an Armory Board, to be composed of the Commanding General of the District of Columbia National Guard, and 2 other members appointed by the Mayor of the District of Columbia by and with the advice and consent of the Council of the District of Columbia. The members appointed by the Mayor shall each serve for a term of 4 years beginning on the date such member qualifies. Each member of the Armory Board is authorized to appoint, and in his discretion to withdraw the appointment of, an alternate and to delegate to such alternate authority to act in his place and stead in respect of the powers granted by this subchapter. The members of said Board and the

alternates shall serve without additional compensation. Said Armory Board shall elect a Chairman from among its members.

(June 4, 1948, 62 Stat. 339, ch. 418, § 2; Dec. 24, 1973, 87 Stat. 811, Pub. L. 93-198, title IV, § 494.)

Cross references. — “Agency” defined, see 1-315.02.

Disclosure of financial interests, requirements, see 1-1106.02.

Nomination and approval of agency heads, see 1-523.01.

Personnel authority, rules and regulations, implementation, see 1-604.06.

Prior Codifications. — 1981 Ed., § 2-302. 1973 Ed., § 2-1702.

References in text. — The National Guard, referred to in the first sentence of this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

Transfer of Functions. — Transfer of non-military functions to Sports Commission: Section 19 of D.C. Law 10-152, provided, in part, that the Sports Commission shall assume all nonmilitary functions of the Armory Board as are set forth in § 2-306 repealed and that all references to the Armory Board in Subchapter II of Chapter 3 of Title 2 are intended to be references to the Sports Commission unless the clear meaning requires otherwise.

Editor’s notes. — Section 2 of D.C. Law 10-206 amended § 19 of D.C. Law 10-152 by adding (e) and (f) which contain provisions

authorizing the Armory Board to exercise its nonmilitary functions and authority on an interim basis and ratifying actions taken by the Board during the interim period.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

§ 3-303. Control of and jurisdiction over Armory; maintenance and repair.

For the purposes of this subchapter, said Armory Board is vested with the control of and jurisdiction over the District of Columbia National Guard Armory. For the purposes of maintenance and repair, the Office of Contracting and Procurement shall perform all contracting on behalf of the Armory.

(June 4, 1948, 62 Stat. 339, ch. 418, § 3; Apr. 12, 1997, D.C. Law 11-259, § 309, 44 DCR 1423.)

Prior Codifications. — 1981 Ed., § 2-303. 1973 Ed., § 2-1703.

Legislative history of Law 11-259. — Law 11-259, the “Procurement Reform Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-705, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 11, 1996, and December 12, 1996, respectively. Signed by the Mayor on January 3, 1997, it was assigned Act No. 11-526 and transmitted to both Houses of Congress for its review. D.C. Law 11-259 became effective on April 12, 1997.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished

the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 3-304. Motor vehicle parking areas.

Upon the request of the Armory Board the Secretary of the Interior shall provide for the use of said Board, under such arrangements for improvement, lighting, and maintenance as may be agreed upon between the Secretary of the Interior and said Board, such areas of land adjacent to the Armory and under the control of the Secretary of the Interior as said Board deems adequate for motor vehicle parking purposes.

(June 4, 1948, 62 Stat. 339, ch. 418, § 4.)

Prior Codifications. — 1981 Ed., § 2-304. 1973 Ed., § 2-1704.

§ 3-305. Use of Armory by National Guard.

The Armory Board shall set aside for the exclusive use of the District of Columbia National Guard such parts of the headquarters and regimental buildings and basement of the drill hall, and such of the storage rooms contiguous to the drill hall as shown upon drawing A-3, first-floor plan, approved by the Council of the District of Columbia April 19, 1940, as said Armory Board may from time to time find are necessary for the use of the National Guard. The parts of the Armory so set aside for the use of the National Guard shall be under the control and jurisdiction of the Commanding General of the National Guard for all purposes except maintenance and repair of the Armory. The drill hall and those parts of the Armory not set aside for the exclusive use of the National Guard shall be available to the National Guard under schedules for joint use made by the Armory Board so as to carry out the purposes and intent of this subchapter.

(June 4, 1948, 62 Stat. 339, ch. 418, § 5.)

Prior Codifications. — 1981 Ed., § 2-305. 1973 Ed., § 2-1705.

References in text. — The National Guard, referred to throughout this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the

Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 3-306. Authorization of Board to carry out secondary purposes of subchapter. [Repealed].

Repealed.

(June 4, 1948, 62 Stat. 340, ch. 418, § 6; Apr. 7, 1977, D.C. Law 1-113, § 2(1), 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(o)(1), 27 DCR 1776; Aug. 23, 1994, D.C. Law 10-152, § 21(c), 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(h).)

Prior Codifications. — 1981 Ed., § 2-306. 1973 Ed., § 2-1706.

Emergency legislation. — For temporary repeal of section, see § 8(h) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

Legislative history of Law 10-198. — Law 10-198, the "Recreation Act of 1994," was introduced in Council and assigned Bill No. 10-741, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on July 19, 1994, and October 4, 1994, respectively. Signed by the Mayor on January 13, 1995, it was assigned Act No. 10-393 and transmitted to

both Houses of Congress for its review. D.C. Law 10-198 became effective on March 23, 1995.

Transfer of Functions. — Transfer of non-military functions to Sports Commission: For temporary amendment of D.C. Law 10-152, authorizing the Armory Board to exercise its nonmilitary functions and authority on an interim basis, see § 2 of the Armory Board Interim Authority Emergency Amendment Act of 1994 (D.C. Act 10-325, October 14, 1994, 41 DCR 7027) and § 2 of the Armory Board Interim Authority Congressional Adjournment Emergency Amendment Act of 1995 (D.C. Act 11-5, January 19, 1995, 42 DCR 545).

§ 3-307. Starplex Fund. [Repealed].

Repealed.

(June 4, 1948, 62 Stat. 341, ch. 418, § 8; Aug. 4, 1955, 69 Stat. 498, ch. 562, § 1; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 2(a); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 2; Apr. 7, 1977, D.C. Law 1-113, § 2(2), 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(o)(3)-(6), 27 DCR 1776; Oct. 19, 1989, D.C. Law 8-44, § 2, 36 DCR 5777; Aug. 23, 1994, D.C. Law 10-152, § 21(c), 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(h).)

Prior Codifications. — 1981 Ed., § 2-307. 1973 Ed., § 2-1708.

Emergency legislation. — For temporary repeal of section, see § 8(h) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

Legislative history of Law 10-198. — For legislative history of D.C. Law 10-198, see Historical and Statutory Notes following § 3-306.

§ 3-308. Transfer of assets held in various funds.

All assets held in the Armory Board Working Capital Fund, the Canteen Fund of the District of Columbia National Guard, and the Stadium Operating Fund shall be transferred to the Starplex Fund; provided, that the assets in the Canteen Fund and any funds derived from the operation of a canteen fund and any funds derived from the operation of a canteen in the Armory for the use and benefit of the District of Columbia National Guard shall inure to the benefit of the District of Columbia National Guard.

(June 4, 1948, 62 Stat. 341, ch. 418, § 8a, as added June 14, 1980, D.C. Law

3-70, § 7(o)(7), 27 DCR 1776; Mar. 25, 2009, D.C. Law 17-353, § 185, 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-308.

Effect of amendments. — D.C. Law 17-353 deleted “established by § 3-307” following “Starplex Fund”.

Legislative history of Law 3-70. — For legislative history of D.C. Law 3-70, see Historical and Statutory Notes following § 3-306.

Legislative history of Law 17-353. — Law 17-353, the “Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-994 which was referred to the Com-

mittee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

References in text. — Section 3-307, referred to in this section, was repealed by D.C. Law 10-152, 41 DCR 4636, effective Aug. 23, 1994.

§ 3-309. Manager; employment of additional personnel. [Repealed].

Repealed.

(June 4, 1948, 62 Stat. 342, ch. 418, § 9; Aug. 19, 1964, 78 Stat. 494, Pub. L. 88-448, title IV, § 402(a)(27); Aug. 23, 1994, D.C. Law 10-152, § 21(c), 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(h).)

Prior Codifications. — 1981 Ed., § 2-309. 1973 Ed., § 2-1709.

Emergency legislation. — For temporary repeal of section, see § 8(h) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

Legislative history of Law 10-198. — For legislative history of D.C. Law 10-198, see Historical and Statutory Notes following § 3-306.

§ 3-310. Financial statement; report of activities and business; recommendations.

The Armory Board shall file with the Congress in July of each year a financial statement certified as to accuracy by the Auditor of the District of Columbia, a report of the activities and business at the Armory during the preceding fiscal year, and recommendations to the Congress as to the future control and use of the Armory.

(June 4, 1948, 62 Stat. 342, ch. 418, § 10; Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 2.)

Cross references. — District of Columbia fiscal management, issuance of revenue bonds, limitations, see § 1-206.03.

National Children’s Island, facilities and parking, available lands, see § 10-1404.

Sports and entertainment commission, assumption of nonmilitary functions of armory board, see § 3-1418.

Prior Codifications. — 1981 Ed., § 2-310. 1973 Ed., § 2-1710.

Editor’s notes. — Office of Auditor abolished: The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commis-

sioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, established, under the direction and control of the Board of Commissioners, a Department of General Administration headed by a Director. The Order transferred to the Director of General Administration all of the functions of the Office of Auditor. Reorganization Order No. 19 established the Internal Audit Office headed by an Internal Audit Officer in the Department of General Administration. The function of certifying as to the accuracy of the yearly financial

statement of the Armory Board was transferred to the Internal Audit Office. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order Nos. 3 and 19 were revoked by Organization Order No. 3 of the Commissioner of the District of Columbia, dated December 13, 1967. Organization Order No. 3 established within the newly created Department of General Administration an Internal Audit Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. Part IVB of Organization Order No. 3 and that

portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. Organization Order No. 50, dated December 31, 1974, established the Office of Budget and Management Systems, and transferred to that Office the functions of the Municipal Audit Office. The Office of Budget and Management Systems was replaced by Mayor's Order 79-5, dated January 2, 1979, which Order established the Office of Budget and Resource Development.

Subchapter II. Robert F. Kennedy Memorial Stadium.

§ 3-321. Purpose; authorization of Board to construct, maintain, and operate Stadium; plans. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 2; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(1), (2); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(1); Aug. 23, 1994, D.C. Law 10-152, § 21(a)(1), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-321. 1973 Ed., § 2-1720.

Legislative history of Law 10-152. — Law 10-152, the "Omnibus Sports Consolidation Act of 1994," was introduced in Council and assigned Bill No. 10-424, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on May 3, 1994, and June 7, 1994, respectively. Signed by the Mayor on June 30, 1994, it was assigned Act No. 10-265 and transmitted to both Houses of Congress for its review. D.C. Law 10-152 became effective on August 23, 1994.

As to the assumption of nonmilitary functions of the Armory Board by the Sports Commission, see § 3-1418.

Construction of Law 10-152. — Section 19(c) of D.C. Law 10-152 provided that the provisions of the act are to be liberally construed so as to effectuate those powers which are specifically enumerated.

Transfer of Functions. — Section 19(b) of D.C. Law 10-152 provided that all references to

the Armory Board in subchapter II of Chapter 3 of Title 2 subchapter II of Chapter 3 of Title 3, 2001 Ed. are hereinafter intended to be references to the Sports Commission unless the clear meaning requires otherwise.

Editor's notes. — Appropriations authorized: Public Law 104-194, 110 Stat. 2363, the District of Columbia Appropriations Act, 1997, provided for the Starplex Fund, \$8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by this subchapter and subchapter II of this chapter: Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by § 47-301(b).

Effect of dissolution of Sports Commission: Section 19(d) of D.C. Law 10-152 provided that if the Sports Commission is dissolved by repeal of the act or ceases to exist for any reason, all of its assets (including, but not limited to, cash, accounts receivable, reserve funds, real or personal property and contract and other rights) shall automatically be assigned to and become the property of the District.

§ 3-322. Authorization of Secretary of Interior.

The Secretary of the Interior is authorized and directed to acquire by gift,

purchase, condemnation, or otherwise, all real property within the boundaries of the East Capitol Street site, as established in the 1st paragraph under the heading "(2) East Capitol Street Site" contained in the National Capital Planning Commission report entitled "Preliminary Report on Sites for National Memorial Stadium" dated November 8, 1956, and thereafter, acting under authority of the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916, as amended (16 U.S.C. § 1 et seq.), the Secretary of the Interior shall enter into a contract with the Board for the construction, maintenance, and operation of the Stadium (including the operation and maintenance of motor vehicle parking areas) on such East Capitol Street site, except that such contract may be for a term of not more than 30 years. The Secretary of the Interior is authorized and directed to construct and prepare in areas A, C, D, and E only, on such site, as such areas are indicated on National Capital Parks Map No. 1.7-146, motor vehicle parking areas, including driveways, walks, lighting, and landscaping, at a total cost not to exceed \$2,660,000.

(Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 3; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(3); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(2), (3).)

Prior Codifications. — 1981 Ed., § 2-322.
1973 Ed., § 2-1721.

Transfer of Functions. — See note to § 3-321.

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-323. Bonds; issuance; rate of interest; registration; redemption; refinancing; sale; exemption from taxation.

(a) The Board is hereby authorized to provide for the payment of the cost of preliminary engineering and economic surveys relating to the Stadium, and for the payment of the cost of planning, designing and constructing such Stadium, and to provide funds for the operation and maintenance of such Stadium, and for the payment of interest on the bonds authorized herein during the period of construction and during the 12-month period following completion of construction of the Stadium, by an issue or issues of negotiable bonds of the Board, bearing interest, payable annually or semiannually, as the Board shall determine, at a rate not exceeding such rate as shall be approved by the Secretary of the Treasury. All such bonds may be registered as to principal alone or both principal and interest, shall be payable as to principal within not to exceed 30 years from the date thereof, shall be in such denominations, shall be executed in such manner, and shall be payable in such medium and at such place or places as the Board may determine, and the face amount thereof shall be so calculated as to produce, at the price of their sale, the cost of the Stadium constructed pursuant to this subchapter. The Board may reserve the right to redeem any or all of the bonds before maturity in such manner and at such price or prices not exceeding 105 per centum of the face value and accrued interest as may be fixed by the Board prior to the issuance of the bonds. The Board when it deems advisable may issue refunding bonds to refinance any

outstanding bonds, and interest thereon, at maturity or before maturity when called for redemption, except that such refunding bonds shall mature within not to exceed 30 years from the date thereof, or not to exceed 50 years from September 7, 1957, whichever shall first occur.

(b) The bonds may be sold at not less than par. If the proceeds of the bonds shall exceed the cost, the excess shall be placed in the fund created by § 3-325 [repealed] for the payment of the principal and interest of such bonds. Prior to the preparation of definitive bonds the Board may, under like restrictions, issue temporary bonds, or may, under like restrictions, issue temporary bonds or interim certificates without coupons, of any denomination whatsoever, exchangeable for definitive bonds when such bonds that have been executed are available for delivery.

(c) All bonds, or other securities, issued by the Board under authority of this subchapter shall be exempt both as to principal and interest from all taxation (except estate and inheritance taxes) now or hereafter imposed by the District of Columbia.

(Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 4; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(4)-(8).)

Prior Codifications. — 1981 Ed., § 2-323. 1973 Ed., § 2-1722.

References in text. — Section 3-325, referred to in subsection (b), was repealed by D.C. Law 10-152, § 21(a)(3), effective Aug. 23, 1994.

Transfer of Functions. — See note to § 3-321.

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-324. Authorization of Board to carry out purposes of subchapter. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 620, Pub. L. 85-300, § 5; July 28, 1958, 72 Stat. 421, 422, Pub. L. 85-561, § 1(9)-(11); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(4), (5); Mar. 25, 1986, D.C. Law 6-101, § 2, 33 DCR 793; Mar. 16, 1989, D.C. Law 7-204, § 4, 36 DCR 454; Aug. 23, 1994, D.C. Law 10-152, § 21(a)(2), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-324. 1973 Ed., § 2-1723.

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

Transfer of Functions. — See note to § 3-321.

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-325. Deposit of receipts; sinking fund; statement showing costs of construction of Stadium. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 6; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(12); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(6), (7); Apr. 7, 1977, D.C. Law 1-113, § 3, 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(p), 27 DCR 1776; Aug. 23, 1994, D.C. Law 10-152, § 21(a)(3), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-325. 1973 Ed., § 2-1724.

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

Transfer of Functions. — See note to § 3-321.

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-326. Title to Stadium to vest in United States; date; conveyance and lease to District of Columbia; non-transferability; uses of property; reversion for noncompliance.

(a) After payment of the bonds and interest or after a sinking fund sufficient for such purpose shall have been provided and shall be held solely for that purpose, but in any event not later than 50 years from September 7, 1957, all right, title, and interest in and to the Stadium constructed under this subchapter shall vest in the United States.

(b)(1) Not later than 180 days after October 29, 1986, the Secretary of the Interior shall:

(A) Convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the Stadium constructed under this subchapter; and

(B) Lease without consideration to the government of the District of Columbia:

(i) The ground under; and

(ii) The parking facilities associated with the Stadium constructed under this subchapter.

(2) The lease authorized by paragraph (1)(B) of this subsection shall be for a period of 50 years.

(c) The conveyance and lease of real property under subsection (b) of this section shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for:

(1) Stadium purposes;

(2) Providing recreational facilities, open space, or public outdoor recreation opportunities;

(3) Such other public purposes for which the property was used prior to June 1, 1985; and

(4) Such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

(d)(1) The instrument of conveyance and the lease referred to in subsection (c) of this section shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if:

(A) The terms and conditions referred to in subsection (c) of this section have not been complied with, as determined by the Secretary, and

(B) Such noncompliance has not been corrected within 90 days after written notice of such noncompliance has been received by the Mayor of the District of Columbia. Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c) of this section.

(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) of this section before the expiration of 90 days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

(3) The conveyance of real property under subsection (b) of this section shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or Stadium should the Stadium revert to the United States pursuant to this subsection.

(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. §§ 1, 2-4), and other provisions of the law generally applicable to units of the national park system.

(e)(1) Upon receipt of a written description from the District of Columbia of not more than 15 contiguous acres (hereinafter referred to as "the 15 acres"), within the area designated "D" on the revised map entitled "Map to Designate Transfer of Stadium and Lease of Parking Lots to the District" and bound by 21st Street, NE, Oklahoma Avenue, NE, Benning Road, NE, the Metro line, and C Street, NE, and execution of a long-term lease by the Mayor of the District of Columbia that is contingent upon the Secretary's conveyance of the 15 acres and for the purpose consistent with this paragraph, the Secretary shall convey the 15 acres described land to the District of Columbia for the purpose of siting, developing, and operating an educational institution for the public welfare, with first preference given to a pre-collegiate public boarding school.

(2) Upon conveyance, the portion of the stadium lease that affects the 15 acres on the property and all the conditions associated therewith shall terminate, and the 15 acres property shall be removed from the "Map to Designate Transfer of Stadium and Lease of Parking Lots to the District", and the long-term lease described in paragraph (1) of this subsection shall take effect immediately. The Mayor of the District of Columbia shall execute and deliver a quitclaim deed to effectuate the District's responsibilities under this section.

(Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 7; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(13); Oct. 29, 1986, 100 Stat. 3313, Pub. L. 99-581, § 1; Nov. 30, 2005, 119 Stat. 2521, Pub. L. 109-115, § 130; Mar. 2, 2007, D.C. Law 16-191, § 126, 53 DCR)

Prior Codifications. — 1981 Ed., § 2-326. 1973 Ed., § 2-1725.

Effect of amendments. — Pub. L. 109-115 added subsec. (e).

D.C. Law 16-191, in subsec. (e)(2), validated a previously made technical correction.

Legislative history of Law 16-191. — Law 16-191, the “Technical Amendments Act of 2006”, was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted

on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Transfer of Functions. — See note to § 3-321.

Editor’s notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

§ 3-327. Employment of personnel; compensation; delegation of powers. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 8; Mar. 3, 1979, D.C. Law 2-139, § 3205(bb), 25 DCR 5740; Aug. 23, 1994, D.C. Law 10-152, § 21(a)(4), 41 DCR 4636.)

Cross references. — Effective date provisions, see § 1-636.02.

Prior Codifications. — 1981 Ed., § 2-327. 1973 Ed., § 2-1726.

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

Transfer of Functions. — See note to § 3-321.

Editor’s notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-328. Limitation on indebtedness; liability of Board members; deficits in sinking fund to be included in budget estimates; authority of Council to borrow from Secretary of Treasury; repayment; bonds guaranteed by United States. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 9; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(14); Aug. 23, 1994, D.C. Law 10-152, § 21(a)(4), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-328. 1973 Ed., § 2-1727.

Legislative history of Law 10-152. — For

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

§ 3-329. Financial statement; report of activities and business; recommendations. [Repealed].

Repealed.

(Sept. 7, 1957, 71 Stat. 622, Pub. L. 85-300, § 10; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 1(15); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(8); Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 3; Aug. 23, 1994, D.C. Law 10-152, § 21(a)(4), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-329.
1973 Ed., § 2-1728.

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

Legislative history of Law 10-152. — For

§ 3-330. “Stadium” defined.

As used in this subchapter the term “Stadium” includes all equipment, appliances, facilities, and property of any kind (including any area designated A, B, C, D, or E on the revised map entitled “Map to Designate Transfer of Stadium and Lease of Parking Lots to the District,” prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A)), necessary to carry out the purposes of this subchapter.

(Sept. 7, 1957, 71 Stat. 622, Pub. L. 85-300, § 11; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 1(16); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(9); Oct. 29, 1986, 100 Stat. 3313, Pub. L. 99-581, § 2.)

Prior Codifications. — 1981 Ed., § 2-330.
1973 Ed., § 2-1729.

Editor’s notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Transfer of Functions. — See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

Subchapter III. Public Safety at Stadium and Armory.

§ 3-341. Possession of disposable containers prohibited; exceptions. [Repealed].

Repealed.

(Nov. 3, 1977, D.C. Law 2-37, § 2, 24 DCR 4058; Aug. 23, 1994, D.C. Law 10-152, § 21(b), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-341.
1973 Ed., § 2-1741.

Temporary Addition of Section. — For temporary (225 day) addition, see § 3 of Omnibus Sports Consolidation Act of 1994 Temporary Amendment Act of 1995 (D.C. Law 11-67, October 26, 1995, law notification 42 DCR 6172).

Emergency legislation. — For temporary

addition (90 days) of section, see § 3 of the Omnibus Sports Consolidation Act of 1994 Emergency Amendment Act of 1995 (D.C. Act 11-102, July 21, 1995, 42 DCR 4009).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

Transfer of Functions. — Section 19(a) of D.C. Law 10-152 provided that the Sports Com-

mission shall assume all nonmilitary functions of the Armory board as are set forth in § 2-306 repealed .

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-342. Unauthorized entry onto Stadium playing field prohibited. [Repealed].

Repealed.

(Nov. 3, 1977, D.C. Law 2-37, § 3, 24 DCR 4058; Aug. 23, 1994, D.C. Law 10-152, § 21(b), 41 DCR 4636.)

Prior Codifications. — 1981 Ed., § 2-342. 1973 Ed., § 2-1742.

Temporary Addition of Section. — For temporary (225 day) addition, see § 3 of Omnibus Sports Consolidation Act of 1994 Temporary Amendment Act of 1995 (D.C. Law 11-67, October 26, 1995, law notification 42 DCR).

Emergency legislation. — For temporary addition (90 days) of section, see § 3 of the Omnibus Sports Consolidation Act of 1994

Emergency Amendment Act of 1995 (D.C. Act 11-102, July 21, 1995, 42 DCR 4009).

For temporary (90 day) addition, see § 2(a) of Ballpark Public Safety Emergency Amendment Act of 2008 (D.C. Act 17-316, March 19, 2008, 55 DCR 3412).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-321.

§ 3-342.01. Definitions.

For the purposes of this subchapter, the term “Baseball Stadium” shall have the same meaning as that provided for the term “Ballpark” in § 47-2002.05(a)(1)(A).

(Nov. 3, 1977, D.C. Law 2-37, § 3a, as added June 5, 2008, D.C. Law 17-169, § 2(a), 55 DCR 5183.)

Legislative history of Law 17-169. — Law 17-169, the “Ballpark Public Safety Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-584 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and

second readings on March 4, 2008, and April 1, 2008, respectively. Signed by the Mayor on April 14, 2008, it was assigned Act No. 17-343 and transmitted to both Houses of Congress for its review. D.C. Law 17-169 became effective on June 5, 2008.

§ 3-343. Establishment of barriers or restricted zones by Chief of Police.

Whenever the Chief of Police of the Metropolitan Police Department, or his or her duly authorized agent, determines that there is or may be a need for controlling the movement of persons attending events being held at the Robert F. Kennedy Memorial Stadium, the Baseball Stadium, or the District of Columbia National Guard Armory, he or she may establish barriers or restricted zones, as he or she considers necessary, for the purpose of affording a clearing for:

- (1) The operation of firemen or policemen;
- (2) The movement of traffic;
- (3) The exclusion of the public from the vicinity of a riot, disorderly gathering, accident, wreck, explosion, or other emergency; or

(4) The safety and protection of persons and property.

(Nov. 3, 1977, D.C. Law 2-37, § 4, 24 DCR 4058; June 5, 2008, D.C. Law 17-169, § 2(b), 55 DCR 5183.)

Prior Codifications. — 1981 Ed., § 2-343. 1973 Ed., § 2-1743.

Effect of amendments. — D.C. Law 17-169, in subsec. (a), inserted “the Baseball Stadium,” following “Stadium”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Ballpark Public Safety Emergency Amendment Act of 2008 (D.C. Act 17-316, March 19, 2008, 55 DCR 3412).

Legislative history of Law 2-37. — Law 2-37, the “Robert F. Kennedy Memorial Stadium and the D.C. National Guard Armory Public Safety Act of 1977,” was introduced in Council and assigned Bill No. 2-79, which was

referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 12, 1977, and July 26, 1977, respectively. Signed by the Mayor on August 11, 1977, it was assigned Act No. 2-71 and transmitted to both Houses of Congress for its review.

Legislative history of Law 17-169. — For Law 17-169, see notes following § 3-342.01.

Transfer of Functions. — See note to § 3-341.

Editor’s notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

§ 3-343.01. Possession of disposable containers prohibited; exceptions.

(a) Except as provided in subsection (b) of this section, no person shall bring into or have in his or her possession within the Robert F. Kennedy Memorial Stadium or the Baseball Stadium any conveniently disposable container made of glass or metal designed primarily to hold or store beverages or liquids of any kind, including, but not limited to, bottles or cans.

(b) Subsection (a) of this section shall not apply to:

(1) Any person duly authorized or licensed by the Washington Convention and Sports Authority to possess, sell, give away, transport, or store alcoholic beverages or containers within any portion of the Robert F. Kennedy Memorial Stadium or the District of Columbia National Guard Armory or to any employee or agent acting for any such duly authorized or licensed person;

(1A) Any person duly authorized or licensed by the Washington Convention and Sports Authority or the lessee or operator of the Baseball Stadium to possess, sell, give away, transport, or store alcoholic beverages or containers within any portion of the Baseball Stadium, or to any employee or agent acting for any such duly authorized or licensed person; or

(2) Activities of the District of Columbia National Guard as provided in § 3-305.

(c) For the purposes of this section, the term “person” includes any duly authorized or licensed individual, partnership, association, or corporation.

(Nov. 3, 1977, D.C. Law 2-37, § 4a, as added July 20, 1996, D.C. Law 11-145, § 3, 43 DCR 2842; June 5, 2008, D.C. Law 17-169, § 2(c), 55 DCR 5183; Mar. 3, 2010, D.C. Law 18-111, § 2082(h)(1), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-343.1.

Effect of amendments. — D.C. Law 17-169, in subsec. (a), inserted “or the Baseball Stadium,” following “Stadium”; in subsec.

(b)(1), substituted “District of Columbia Sports and Entertainment Commission” for “District of Columbia Sports Commission”, and deleted “or” from the end; and added subsec. (b)(1A).

D.C. Law 18-111, in subsecs. (b)(1) and (1A),

substituted “Washington Convention and Sports Authority” for “District of Columbia Sports and Entertainment Commission”.

Emergency legislation. — For temporary addition of § 2-343.1 and 2-343.2 1981 Ed., see § 3 of the Omnibus Sports Consolidation Act Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-275, May 29, 1996, 43 DCR 2966).

For temporary (90 day) amendment of section, see § 2(c) of Ballpark Public Safety Emergency Amendment Act of 2008 (D.C. Act 17-316, March 19, 2008, 55 DCR 3412).

For temporary (90 day) amendment of section, see § 2082(h)(1) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(h)(1) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 11-145. — Law

11-145, the “Omnibus Sports Consolidation Act Amendment Act of 1996,” was introduced in Council and Assigned Bill No. 11-349, which was referred to the Committee on Public Services and Regional Authorities. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 20, 1996, it was assigned Act No. 11-269 and transmitted to both Houses of Congress for its review. D. C. Law 11-145 became effective on July 20, 1996.

Legislative history of Law 17-169. — For Law 17-169, see notes following § 3-342.01.

Legislative history of Law 18-111. — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009,” was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

§ 3-343.02. Unauthorized entry onto stadium playing field prohibited.

(a) Unless expressly authorized by the Washington Convention and Sports Authority or its duly authorized agent, no person shall at any time enter onto any portion of the playing field within the Robert F. Kennedy Memorial Stadium.

(b) Unless expressly authorized by the Washington Convention and Sports Authority, the lessee or operator of the Baseball Stadium, or their duly authorized agents, no person shall at any time enter onto any portion of the playing field within the Baseball Stadium.

(c) For the purposes of this section, the term “playing field” means the area encompassed by the seating facilities within the Robert F. Kennedy Memorial Stadium or the Baseball Stadium, as such seating facilities may be arranged from time to time.

(Nov. 3, 1977, D.C. Law 2-37, § 4b, as added July 20, 1996, D.C. Law 11-145, § 3, 43 DCR 2842; June 5, 2008, D.C. Law 17-169, § 2(d), 55 DCR 5183; Mar. 3, 2010, D.C. Law 18-111, § 2082(h)(2), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-343.2.

Effect of amendments. — D.C. Law 17-169 rewrote the section which had read as follows: “Unless expressly authorized by the District of Columbia Sports Commission or its duly authorized agent, no person shall at any time enter onto any portion of the playing field within the Robert F. Kennedy Memorial Stadium. For the purposes of this section, the ‘playing field’ is

that area encompassed by the seating facilities within the Stadium as such seating facilities may be arranged from time to time.”

D.C. Law 18-111, in subsecs. (a) and (b), substituted “Washington Convention and Sports Authority” for “District of Columbia Sports and Entertainment Commission”.

Emergency legislation. — See note to § 2-343.01.

For temporary (90 day) amendment of sec-

tion, see § 2(d) of Ballpark Public Safety Emergency Amendment Act of 2008 (D.C. Act 17-316, March 19, 2008, 55 DCR 3412).

For temporary (90 day) amendment of section, see § 2082(h)(2) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(h)(2) of Fiscal Year Budget Support Congressional Review Emergency

Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 11-145. — For legislative history of D.C. Law 11-145, see Historical and Statutory Notes following § 3-343.01.

Legislative history of Law 17-169. — For Law 17-169, see notes following § 3-342.01.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

§ 3-344. Penalty for violation of subchapter.

Any person who violates any provision of this subchapter shall upon conviction be fined not more than \$300.

(Nov. 3, 1977, D.C. Law 2-37, § 5, 24 DCR 4058.)

Cross references. — Licensure, non-health related occupations and professions, excepted occupations, see § 47-2853.04.

Prior Codifications. — 1981 Ed., § 2-344. 1973 Ed., § 2-1744.

Legislative history of Law 2-37. — For legislative history of D.C. Law 2-37, see Historical and Statutory Notes following § 3-343.

Transfer of Functions. — See note to § 2-341.

Editor's notes. — Effect of dissolution of Sports Commission: See note to § 3-321.

Construction of Law 10-152: See note to § 3-321.

CASE NOTES

In general.

Congress did not authorize District of Columbia Armory Board to be sued, and personal injury plaintiff's failure to notify District's mayor within six months of injury thus compelled dismissal; although Board had been captioned in other litigation and apparently had

never challenged its amenity to suit, relevant statutory provisions revealed no clear intent by Congress to establish Armory Board as sui juris. D.C. Code 1981, §§ 2-301, 2-321, 2-324(2, 6, 8, 9), 2-344, 12-309. *Simmons v. District of Columbia Armory Bd.*, 656 A.2d 1155, 1995 D.C. App. LEXIS 81 (1995).

CHAPTER 4. BOARD OF FUNERAL DIRECTORS.

Sec.

- 3-401. Purposes.
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Sec.

- services establishment entitled; settlement of disputed claims.
- 3-413. Claim of human remains — Order of priority of next of kin.
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- 3-415. Courtesy cards for funeral directors licensed in Maryland or Virginia.
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- 3-418. Prosecutions.
- 3-419. Injunctions.
- 3-420. Rules.
- 3-421. Services requiring immediate supervision by a funeral director.

§ 3-401. Purposes.

The purposes of this chapter are to provide for the licensure and regulation of funeral directors, apprentice funeral directors, and funeral services establishments in the District of Columbia, and to protect the public from fraudulent, unfair, and deceptive practices by persons licensed to provide funeral directing services.

(May 22, 1984, D.C. Law 5-84, § 2, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2801.

Legislative history of Law 5-84. — Law 5-84, the “District of Columbia Funeral Services Regulatory Act of 1984,” was introduced in Council and assigned Bill No. 5-7, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 28, 1984, and March 13, 1984, respectively. Signed by the Mayor on March 29, 1984, it was assigned Act No. 5-120 and transmitted to both Houses of Congress for its review.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor’s Order 87-186, August 3, 1987.

Delegation of Authority Pursuant to D.C. Law 5-84, the District of Columbia Funeral Services Regulatory Act of 1984, see Mayor’s Order 2007-216, October 5, 2007 (55 DCR 149).

Editor’s notes. — Although a new Board of Funeral Directors has been established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261), codified under D.C. Official Code § 47-2853.06(f), the old board, codified under D.C. Official Code § 3-401 et seq. has not been abolished by law.

§ 3-402. Definitions.

As used in this chapter, the term:

- (1) “Adult” means a person who is 18 years of age or older.
- (2) “Apprentice funeral director” means any person licensed by the District to engage in learning the practice, or to engage in the practice, of funeral directing by performing funeral directing under the direct or immediate supervision of a full-time funeral director licensed by the District.
- (3) “Board” means the Board of Funeral Directors for the District of Columbia.
- (4) “Consumer” means a person who makes arrangements with a funeral

services establishment for the care and disposition of human remains, including arrangements made prior to the death of a person.

(5) "Council" means the Council of the District of Columbia.

(6) "Direct supervision" means that a funeral director currently licensed to practice as a funeral director in the District is present and assisting the supervisee.

(7) "District" means the District of Columbia.

(8) "Full-time employee" means a person whose primary occupation or employment is with a funeral services establishment as a funeral director.

(9) "Funeral director" means any person licensed by the District to perform the practice of funeral directing. As used in this chapter, the term "funeral director" includes the terms "mortician," "undertaker," and "embalmer" as these terms relate to licensure in those jurisdictions where these categories are licensed separately, or under these terms.

(10) "Funeral provider" means any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

(11) "Funeral services establishment" means any place or premises in the District devoted to, or wherein is engaged, the business of the care or preparation of human remains for funeral, burial, cremation, or transportation, consisting of a chapel (or a room in which funeral services, including visiting hours prior to disposition, may be conducted) or a preparation room, and where arrangements can be made for funeral services or purchasing funeral supplies including accouterments by the public, and where payment for the rendering of funeral services and supplies can be arranged. The term "funeral services establishment" includes the term "funeral home."

(12) "Human remains" means the remains of a deceased human being or fetus or any part thereof.

(13) "Immediate supervision" means that a funeral director currently licensed to practice as a funeral director in the District is available within reasonable proximity and within vocal or electronic communication range of the supervisee.

(14) "License" means an authority from the District which entitles the holder to practice in the District either as a funeral director or apprentice funeral director, or an authority from the District which entitles the holder to own and operate a funeral services establishment.

(15) "Mayor" means the Mayor of the District of Columbia.

(16) "Nationally approved examination" means the examination approved by the Conference of Funeral Service Examining Boards.

(17) "Person" means any natural person.

(18) "Practice of funeral directing" means engaging in the care and disposal of human remains or the preserving by embalming or otherwise of human remains for transportation, funeral services, burial, or cremation.

(19) "Solicitation" means any annoying or unseemly conduct by a licensee, his employees, or agents, such as: (A) Loitering in or about a hospital, sanitarium, personal care home, or other place for the purpose of soliciting the employment of the licensee's services; (B) offering, giving, or promising any gratuity or payment, either in money or property, to any person for information

concerning human remains; (C) requesting or recommending that a consumer change from another funeral services establishment to the soliciting party's funeral services establishment; (D) engaging in a dispute with another licensee for the possession of human remains; or (E) initiating contact with the next of kin, relations, friends, or associates of the deceased in order to provide funeral services or disposition of the deceased without being contacted by the next of kin or his or her representative. The term "solicitation" shall not include general advertising, the sale of burial insurance, or responses to requests for information from consumers.

(May 22, 1984, D.C. Law 5-84, § 3, 31 DCR 1815; Sept. 24, 2010, D.C. Law 18-223, § 2082(a), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 2-2802.

Effect of amendments. — D.C. Law 18-223 rewrote pars. (6) and (13).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2082(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 18-223. — Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to

the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Short title. — Short title: Section 2081 of D.C. Law 18-223 provided that subtitle H of title II of the act may be cited as the "Funeral Director Licensing Amendment Act of 2010".

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor's Order 87-186, August 3, 1987.

§ 3-403. Board of Funeral Directors; duties of Mayor; duties of Board; compensation of Board. [Repealed].

Repealed.

(May 22, 1984, D.C. Law 5-84, § 4, 31 DCR 1815; Apr. 30, 1988, D.C. Law 7-104, § 28, 35 DCR 147; Apr. 12, 2000, D.C. Law 13-91, § 134, 47 DCR 520.)

Prior Codifications. — 1981 Ed., § 2-2803.

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 7-104. — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Legislative history of Law 13-91. — Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor's Order 87-186, August 3, 1987.

§ 3-404. Fees.

(a) The Mayor may establish, by rule, a fee schedule for all services related

to the regulation of the practice of funeral directing. The fees shall be reasonably related to the cost of administering the licensing, certification, or registration, including the cost of testing, processing, and issuing the license, certificate, or registration, and a proportionate share of the cost of running the Board and any hearing procedures, and other administrative functions. Application fees paid under this section shall not be refundable, even if the applicant withdraws his or her application for licensure, certification, or registration, or is found by the Board to be not qualified.

(b) The Mayor may establish and change the expiration date of licenses provided for in this chapter. Upon the change of an expiration date, the renewal fee for licenses shall be prorated on the basis of the time covered.

(May 22, 1984, D.C. Law 5-84, § 5, 31 DCR 1815; Sept. 24, 2010, D.C. Law 18-223, § 2082(b), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 2-2804.

Effect of amendments. — D.C. Law 18-223 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2082(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 3-402.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor's Order 87-186, August 3, 1987.

§ 3-405. Qualifications, applications, and examinations for licensure.

(a) *Funeral director's license.* — Except as provided in subsections (b) and (c) of this section, an applicant for licensure as a funeral director shall furnish satisfactory proof to the Mayor that he or she:

- (1) Is at least 18 years of age;
- (2) Is a graduate of a high school or possesses the equivalent education as approved by the Mayor;
- (3) Is a graduate of an accredited school or college of mortuary science whose course of instruction is not less than 12 months in duration or is composed of not less than 840 hours of study; or has successfully completed a 2-year course of study leading to an associate degree in mortuary science;
- (4) Has had at least 2 years of practical experience as an apprentice funeral director if he or she is a graduate of a school or college of mortuary science, or at least 1 year of practical experience if he or she possesses an associate degree in mortuary science; has actually embalmed at least 25 human remains; and has actually conducted or directed at least 25 funerals. This experience shall be verified by the sworn affidavit of each funeral director under whose immediate supervision the apprentice funeral director's duties were performed, indicating the number of human remains embalmed by the applicant and the number of funerals conducted or directed during the period of apprenticeship served under the supervision of the funeral director;
- (5) Is fully acquainted with District and federal laws relating to the practice of funeral directing, in a manner to be determined by the Mayor;
- (6) Has paid all required fees;

- (7) Has passed a nationally approved examination; and
- (8) Has met all additional requirements set by the Mayor.

(b) *Special licensing.* —

(1) Notwithstanding the requirements set forth in subsection (a) of this section, any funeral director licensed by the District as an undertaker on May 22, 1984, shall be qualified for licensure under this chapter upon meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section.

(2) Any apprentice funeral director licensed by the District on May 22, 1984, and actively engaged in discharging the duties of a funeral director from January 1, 1973, through January 1, 1990, shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing the nationally approved oral and practical examination; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(3) Every person who on August 1, 1947, would have qualified for licensure under § 47-2843(c) [repealed], and who has discharged the duties of a funeral director from January 1, 1973, through January 1, 1983, and continues to discharge those duties shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing any oral and practical examination the Mayor may require to determine that the person is fully acquainted with District and federal laws relating to the practice of funeral directing; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(4) Applicants to be licensed by paragraphs (2) and (3) of this subsection must comply with the requirements of this chapter within 2 years following the date on which the Mayor establishes the examinations required by paragraph (5) of this subsection.

(5) The Mayor shall, within 6 months of June 19, 1998, establish the necessary examinations to test individuals for licensure as funeral directors under paragraphs (2) and (3) of this subsection. The Mayor shall conduct these examinations at least twice during the 2-year period following the date these examinations are established.

(c) *Reciprocity.* — An applicant for a license by reciprocity to practice as a funeral director in the District must furnish proof to the Mayor that he or she:

(1) Is currently licensed in good standing as a funeral director in a state or territory of the United States wherein the requirements for licensure are substantially equal to or exceed those in effect in the District, and which state or territory admits funeral directors licensed by the District in a like manner; and

(2) Meets the qualifications specified in paragraphs (1), (2), (5), and (6) of subsection (a) of this section.

(d) *Apprentice funeral director's license.* — An applicant for licensure as an apprentice funeral director must furnish proof satisfactory to the Mayor that he or she:

- (1) Is at least 18 years of age;
- (2) Is a graduate of a recognized high school or possesses the equivalent education as approved by the Mayor;
- (3) Is fully acquainted with District and federal laws relating to the practice of funeral directing and embalming, in a manner to be determined by the Mayor;
- (4) Has paid all required fees; and
- (5) Has successfully completed or is enrolled in an accredited school or college of mortuary science, or has successfully completed or is enrolled in a 2-year course of study leading to an associate degree in mortuary science as required by paragraph (3) of subsection (a) of this section.

(e) *Funeral services establishment license.* —

(1) No funeral services establishment shall be operated in the District unless licensed as a funeral services establishment in accordance with subchapter I-A of Chapter 28 of Title 47.

(1A) Licenses issued under this subsection shall be issued as Public Health Funeral Establishment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(2) No individual may be licensed to operate a funeral services establishment unless that individual is also licensed as a funeral director under this chapter.

(3) No corporation, partnership, or other business entity may be licensed to operate a funeral services establishment unless: (A) One of the owners of the funeral services establishment business is licensed as a funeral director under this chapter, and (B) the business entity designates a principal funeral director, licensed under this chapter, who will be responsible for the daily operation of the funeral services establishment. The Mayor shall issue rules and regulations pursuant to § 3-420 to ensure that the corporation, partnership, or other business entity comes into prompt compliance with this paragraph when death or termination of the business relationship removes the owner who is a licensed funeral director or the licensed funeral director responsible for the daily operation of the funeral services establishment.

(4) All funeral services establishments operated in the District shall be built, equipped, arranged, occupied, and maintained in compliance with all applicable District and federal laws.

(5) The Board shall provide the Office of the Chief Medical Examiner and all facilities and agencies, as defined in § 44-501(c), with a list of all funeral services establishments and a list of funeral directors, apprentice funeral directors, and courtesy card holders authorized to receive human remains for care or preparation in accordance with this chapter. The list shall:

- (A) Consist only of funeral services establishments licensed and operating in the District of Columbia pursuant to this subsection;
- (B) Include the funeral services establishment license number; and

(C) Be updated annually.

(f) *Surviving spouse license.* —

(1) Upon the death of the funeral director licensed to operate the funeral services establishment, the Mayor may issue a funeral services establishment license to the funeral director's surviving spouse or estate when the following conditions have been met:

(A) The surviving spouse or estate must notify the Mayor within 10 days of the death of the funeral director of the intent to continue operating the funeral services establishment, and must apply for a funeral services establishment license within 30 days of the death of the funeral director; and

(B) The surviving spouse or estate must identify a funeral director licensed by the District who will be responsible for the day-to-day operation of the funeral services establishment as required by this chapter.

(2) A surviving spouse shall qualify for a license pursuant to this subsection only as long as he or she remains unmarried, except that any surviving spouse presently operating a funeral services establishment on May 22, 1984, is grandfathered.

(3) An estate shall qualify for a license pursuant to this subsection for a period not to exceed 3 years from the date of the funeral director's death.

(g) *Application procedures for licenses.* —

(1) Each applicant for a license shall file with the Mayor a complete and true application on a form approved by the Mayor.

(2) Each application for a funeral director's and apprentice funeral director's license shall be accompanied by a recent photograph of the applicant's face, measuring approximately 1" x 1½".

(3) Each application for a license pursuant to paragraph (1) of this subsection shall be sworn to before a notary public.

(4) The Mayor shall review and take action on all applications within a reasonable time after filing. An applicant for any license has the burden of proving compliance with the qualifications and requirements for obtaining the license desired. The Mayor may not presume qualifications and requirements not shown on the application. The Mayor may refuse to act on the application and may require the applicant to submit additional information if the application contains incomplete or evasive information.

(5) The Mayor may deny, after notice and opportunity for hearing, any application if: (A) The applicant has knowingly made or allowed to be made on his behalf any false or misleading statements in connection with his or her application, or (B) the applicant or an agent of the applicant has attempted to improperly influence any member of the Board or officer or employee of the District in the discharge of duties relating to the application.

(6) Each applicant for a funeral director's license for which an examination is required shall make application to take the examination not later than 60 calendar days prior to the date of the examination.

(7) Procedures governing applications for a funeral director's license, an apprentice funeral director's license, a surviving spouse license, and a license to operate a funeral services establishment shall be prescribed in rules and regulations issued by the Mayor pursuant to § 3-420.

(h) *Examination.* —

(1) The Mayor shall conduct each year in the District at least 1 nationally approve[d] examination for licensure as a funeral director. The Mayor may schedule additional examinations he or she determines to be necessary. The Mayor shall fix the time and place for each examination.

(2) Except as provided in § 3-420, the funeral director's license examination shall consist of the following 3 parts: (A) Written examination, (B) oral examination, and (C) practical demonstration.

(3) The Mayor may waive the written portion of the examination if an applicant for a funeral director's license has previously passed the written portion of the nationally approved examination as defined by § 3-402(16).

(4)(A) The written portion of the funeral director's license examination shall consist of questions relating to embalming, anatomy, pathology, bacteriology, chemistry, restorative art, and mortuary administration.

(B) The practical demonstration portion of the funeral director's license examination shall consist of a demonstration by the applicant, in the presence of 2 or more members of the Board, of his or her knowledge and skill in the care, preparation, and preservation of human remains.

(C) The oral portion of the funeral director's license examination shall consist of questions on District and federal laws and regulations governing the practice of funeral directing, including, but not limited to, the following subjects:

- (i) The Anatomical Board, human tissue banks, and anatomical gifts;
- (ii) Vital statistics and containers for cremated human remains;
- (iii) Trafficking in dead bodies;
- (iv) Cemeteries and crematories;
- (v) Licensing of funeral directors; and
- (vi) Penalty provisions.

(5) The oral portion of the funeral director's license examination shall be administered to an applicant in the presence of 2 or more members of the Board, at least 2 of whom shall be licensed funeral directors.

(6) The written portion of the examination for a funeral director's license shall be administered to applicants in the presence of 1 or more members of the Board, or an employee of the District government designated by the Mayor.

(7) The examination shall be administered to applicants for a funeral director's license in accordance with examination procedures established by the Mayor. Each applicant shall be fully advised of the examination procedures prior to the examination and a copy of the procedures shall be included in the notice of authorization to take the examination.

(8) The Mayor shall monitor the implementation of the nationally approved examination for a funeral director's license to ensure that there are no anticompetitive or discriminatory effects. If the Mayor reasonably determines by rulemaking that the examination is producing anticompetitive or discriminatory effects, the Mayor shall develop a local examination and, after proper notice and publication, shall substitute it for the nationally approved examination.

(i)(1) The Board may issue a license to practice as a funeral director in the

District to an applicant who is licensed by another state by waiver of the examination and apprenticeship requirements of subsection (a) of this section.

(2) An applicant for a license to practice as a funeral director in the District shall furnish proof to the Board that he or she:

(A) Is currently licensed in good standing as a funeral director in a state or territory of the United States with requirements for licensure that are substantially similar to those in effect in the District;

(B) Has practiced continuously in the state or territory of licensure as a funeral director for at least 5 years preceding his or her application; and

(C) Meets the qualifications specified in subsection (a)(1), (2), (5), and (6) of this section.

(May 22, 1984, D.C. Law 5-84, § 6, 31 DCR 1815; Sept. 15, 1992, D.C. Law 9-150, § 2-3, 39 DCR 5019; Mar. 17, 1993, D.C. Law 9-207, § 2, 40 DCR 14; Apr. 20, 1999, D.C. Law 12-261, § 1239, 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-263, § 13(a), 46 DCR 2111; Oct. 28, 2003, D.C. Law 15-38, § 3(c), 50 DCR 6913; Mar. 25, 2009, D.C. Law 17-353, § 186(a), 56 DCR 1117; Sept. 24, 2010, D.C. Law 18-223, § 2082(c), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 2-2805.

Effect of amendments. — D.C. Law 15-38, in par. (1A) of subsec. (e), substituted “Public Health Funeral Establishment endorsement to a basic business license under the basic” for “Class A Public Health Funeral Establishment endorsed to a master business license under the master”.

D.C. Law 17-353, in subsecs. (e)(3) and (g)(7), substituted “§ 3-420” for “§ 3-403(i)”; and, in subsec. (h)(4)(B), substituted “§ 3-420” for “§ 3-403(d)”.

D.C. Law 18-223 rewrote subsec. (e)(5); and added subsec. (i). Prior to amendment, subsec. (e)(5) read as follows: “(5) The Mayor shall provide all health care facilities, as those facilities are defined in § 44-501(a), a list of all funeral services establishments authorized to receive human remains for care or preparation in accordance with this chapter. The list shall consist only of funeral services establishments licensed and operating in the District of Columbia pursuant to this subsection, shall include the funeral services establishment license number, and shall be updated annually.”

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see §§ 2 and 3 of Funeral Services Regulatory Temporary Amendment Act of 1992 (D.C. Law 9-150, September 15, 1992, law notification 39 DCR 7280).

Emergency legislation. — For temporary amendment of section, see § 2-3 of the Funeral Services Regulatory Emergency Amendment Act of 1992 (D.C. Act 9-230, June 19, 1992, 39 DCR 4919).

For temporary (90 day) amendment of section, see § 3(c) of Streamlining Regulation

Emergency Act of 2003 (D.C. Act 15-145, August

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 9-207. — Law 9-207, the “Funeral Services Regulatory Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-559, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 4, 1992, and December 1, 1992, respectively. Signed by the Mayor on December 18, 1992, it was assigned Act No. 9-336 and transmitted to both Houses of Congress for its review. D.C. Law 9-207 became effective on March 17, 1993.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 12-263. — Law 12-263, the “Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998,” was introduced in Council and assigned Bill No. 12-648, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first, amended first, and second

readings on October 6, 1998, November 10, 1998, and December 1, 1998, respectively. Vetoed by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999 and the Bill was assigned Act No. 12-625 and transmitted to both Houses of Congress for its review. D.C. Law 12-263 became effective on April 20, 1999.

Legislative history of Law 15-38. — Law 15-38, the “Streamlining Regulation Act of 2003”, was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively.

Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 3-402.

References in text. — Former “§ 47-2843(c),” referred to in subdivision (b)(3) of this section, was repealed by § 22 of D.C. Law 5-84.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor’s Order 87-186, August 3, 1987.

§ 3-406. Issuance and renewal of licenses.

(a) A license to practice in the District as either a funeral director or apprentice funeral director, or to operate a funeral services establishment shall be issued to each applicant who meets all of the requirements for licensure.

(b) Every license in good standing issued in accordance with this chapter shall expire on a date set by the Mayor and shall be renewed as determined by the Mayor in rules and regulations to be issued pursuant to § 3-420. On or before the 30th day preceding expiration, the Mayor shall mail an application for renewal to the last known address of each person holding a license in good standing. Failure to receive this application shall not be a proper defense of any person failing to renew any required license.

(c) Each person holding a license in good standing issued pursuant to this chapter, and who wishes to continue practice in the District, shall, on or before the last day of each term, file an application for renewal of the license accompanied by the proper fee.

(d) Except as otherwise provided by this chapter, upon receipt of a renewal application and the proper fee, the Mayor shall issue a renewal for the new license year.

(e) Any person holding a license issued under the provisions of this chapter who fails to file an application for renewal and pay the required fee on or before the last day of any license term, and who, after the first day of the new term, performs in the District the duties of a licensee, shall be found in violation of this chapter. Any license that is not renewed within 30 days of the expiration of its term, shall be terminated.

(f) Any person whose license has expired and who subsequently files an application for renewal shall comply with any terms and conditions prescribed by the Mayor not inconsistent with this chapter. The terms and conditions for restoration of a lapsed license may, in the discretion of the Mayor, include the passing of an examination or payment of a penalty fee, or both.

(May 22, 1984, D.C. Law 5-84, § 7, 31 DCR 1815; Mar. 25, 2009, D.C. Law 17-353, § 186(b), 56 DCR 1117.)

Cross references. — Human tissue provisions, exemption, see § 7-1541.06.

Prior Codifications. — 1981 Ed., § 2-2806.
Effect of amendments. — D.C. Law 17-

353, in subsec. (b), substituted “§ 3-420” for “§ 3-403(i)”.

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-407. Terms and conditions of apprenticeship.

(a) In order to qualify for a funeral director’s license, an apprentice funeral director (“apprentice”) must serve an apprenticeship under the supervision of a funeral director licensed by the District.

(b) Notwithstanding the requirement of subsection (a) of this section, an apprentice who is required to serve a 2-year minimum apprenticeship may serve up to 1 year of the apprenticeship outside of the District, if the period of apprenticeship served outside of the District is served under the supervision of a funeral director who has passed a nationally approved examination and is the owner or full-time employee of the funeral services establishment where the apprentice is employed. The Mayor shall issue rules and regulations to implement this subsection pursuant to § 3-420.

(c) An apprentice funeral director may obtain license renewals allowing him to extend his apprenticeship, but the total period of apprenticeship shall not exceed 4 years.

(d) Every apprentice employed in that capacity within the District shall, within 5 days after terminating his or her employment, notify the Mayor of the termination, indicating the date on which the employment ceased.

(e) Every apprentice whose employment under the supervision of a funeral director is terminated shall, immediately upon being employed to work under the supervision of another funeral director, notify the Mayor of the change of employment, indicating the name, address, and license number of the funeral director under whose supervision the apprentice is continuing his or her apprenticeship.

(f) A funeral director shall, upon employing an apprentice or terminating the employment of an apprentice, notify the Mayor in writing accordingly. The notification shall contain the name, address, and license number of the apprentice, as well as the date on which the apprentice was employed or terminated.

(May 22, 1984, D.C. Law 5-84, § 8, 31 DCR 1815; Mar. 25, 2009, D.C. Law 17-353, § 186(c), 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-2807.

Effect of amendments. — D.C. Law 17-353, in subsec. (b), substituted “§ 3-420” for “§ 3-403(i)”.

Legislative history of Law 5-84. — For

legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-408. Grounds for denial, suspension, or revocation of license.

(a) The Mayor may refuse to approve or issue a renewal of a license, or may order restrictions, impose a fine, impose conditions on the practice of funeral

directing, or suspend or revoke the license of any applicant or licensee if the Mayor finds that the applicant or licensee has:

(1) Engaged in any fraud, deceit, or misrepresentation of any material fact in procuring or attempting to procure any license authorized by this chapter;

(2) Engaged in any unfair, deceptive, or misleading act or practice, or unfair method of competition in the funeral profession, including the illegal fixing or maintaining of prices or the illegal restraint of trade;

(3) Violated any provision of this chapter, or District or federal laws, rules, or regulations pertaining to the practice of funeral directing;

(4) Acted in a manner inconsistent with the health, welfare, or safety of the public as prescribed in rules and regulations to be issued by the Mayor pursuant to § 3-403(i) [repealed];

(5) Performed funeral directing services while under the influence of intoxicating liquors or drugs;

(6) Conspired with, or aided or abetted, any person in the violation or circumvention of any provision of this chapter;

(7) Solicited human remains;

(8) Engaged in misrepresentation or fraud in the conduct of the business of a funeral services establishment as a funeral director or as an apprentice funeral director;

(9) Performed embalming services without specific written authorization by the next of kin, except in the case of a demonstrated emergency where the public health, welfare, or safety would demand otherwise;

(10) Charged in excess of actual out-of-pocket expenditures paid by the funeral services establishment for cash advances and other expenditures. A reasonable charge not exceeding the District's legal interest rate per annum on the unpaid balance may be added to any cash advances or expenditures not repaid by the consumer within 30 days; or

(11) Committed gross negligence in the performance of funeral directing services. Acts constituting gross negligence shall be prescribed by the Mayor in rules and regulations issued pursuant to § 3-403(i).

(b) Any denial, suspension, or revocation under this section shall be made only upon specific charges in writing and after proper notice and a hearing pursuant to § 3-409.

(May 22, 1984, D.C. Law 5-84, § 9, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2808. legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.
Legislative history of Law 5-84. — For

§ 3-409. Hearing procedures.

When a written complaint alleging a violation under this chapter has been filed with the Mayor, the Mayor shall initiate an investigation and, if warranted, fix a time and place for a hearing pursuant to § 2-509. The Mayor shall cause a certified copy of the charges to be served on the respondent within a reasonable time prior to the hearing. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled

by subpoena. The Mayor shall be bound by the rules of procedure and evidence in the conduct of hearings pursuant to § 2-509, and decisions shall be based upon substantial evidence. If the respondent is found in violation of this chapter, the Mayor may refuse to issue the respondent a license, may refuse to renew the license of the respondent, or may revoke or suspend the license of the respondent.

(May 22, 1984, D.C. Law 5-84, § 10, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2809.

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor's Order 87-186, August 3, 1987.

§ 3-410. Appeal procedures.

Any person aggrieved by any final decision or order of the Mayor denying, suspending, or revoking any license or renewal of a license issued or applied for under this chapter may obtain a review of the decision pursuant to § 2-510.

(May 22, 1984, D.C. Law 5-84, § 11, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2810.

Legislative history of Law 5-84. — For

legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

§ 3-411. Prohibited acts; exemption for services provided during emergency.

(a) No person shall engage in the practice of funeral directing in the District of Columbia without being licensed in accordance with this chapter.

(b) No funeral services establishment licensee shall engage in, or permit any employee or agent to engage in, the practice of funeral directing unless the person performing these duties is a funeral director licensed pursuant to this chapter or an apprentice funeral director licensed pursuant to this chapter and under the direct or immediate supervision of a licensed funeral director as required by this chapter. The direct or immediate supervision requirement shall not extend to employees whose duties are limited to the business management activities of the establishment.

(c) No person shall operate a funeral services establishment in the District unless the person is licensed in accordance with this chapter. A separate funeral services establishment license shall be required for each location in the District.

(d) No person shall engage in the practice of funeral directing if the person is employed on a part-time or full-time basis by a nursing home, hospital, morgue, physician's office, the Office of the Chief Medical Examiner, or an ambulance service.

(d-1) A funeral services establishment shall not operate an emergency medical transport service with technicians or drivers who do not work exclusively for the medical transport service.

(e) No person licensed as a funeral director or apprentice funeral director, or

licensed to operate a funeral services establishment shall allow any other person to use or practice under his or her license.

(f) No person shall perform funeral directing services at any funeral services establishment in the District unless he or she has on display at the establishment a valid current license to practice at that location. Any license issued pursuant to this chapter shall be good only for the location designated thereon.

(g) No person employed by a nursing home, hospital, morgue, physician's office, the Office of the Chief Medical Examiner, or an ambulance service shall inform a funeral services establishment, funeral director, or representative or employee of a funeral services establishment of a death or impending death at the institution if the person is employed for the purpose of facilitating solicitation, as defined in § 3-402(19), by the funeral services establishment, funeral director, representative, or employee.

(h) This chapter does not prohibit the provision of funeral, cremation, cemetery, or other mortuary services by an individual who is authorized to provide such services under Chapter 23C of Title 7 [§ 7-2361.01 et seq.], while an emergency declaration is in effect.

(May 22, 1984, D.C. Law 5-84, § 12, 31 DCR 1815; July 1, 2010, D.C. Law 18-184, § 14(a), 57 DCR 3655; Sept. 24, 2010, D.C. Law 18-223, § 2082(d), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 2-2811.
Effect of amendments. — D.C. Law 18-184, in the section heading, inserted “; exemption for services provided during emergency”; and added subsec. (h).

D.C. Law 18-223 rewrote subsecs. (d) and (g); and added subsec. (d-1).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2082(d) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 18-184. — Law 18-184, the “Uniform Emergency Volunteer Health Practitioners Act of 2010”, was introduced in Council and assigned Bill No. 18-71, which was referred to the Committee on Health, Public Safety and the Judiciary. The Bill was adopted on first and second readings on March 2, 2010, and March 16, 2010, respectively. Signed by the Mayor on April 26, 2010, it was assigned Act No. 18-383 and transmitted to both Houses of Congress for its review. D.C. Law 18-184 became effective on July 1, 2010.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 3-402.

§ 3-412. Claim of human remains — Funeral services establishment entitled; settlement of disputed claims.

The funeral services establishment retained by the person authorized pursuant to § 3-413 shall be entitled to take possession of human remains. In the event that 2 or more establishments differ as to their legal right to take possession of human remains, they shall refer the matter to the Mayor or his or her designee for a decision.

(May 22, 1984, D.C. Law 5-84, § 13, 31 DCR 1815; May 24, 1996, D.C. Law 11-129, § 2(a), 43 DCR 1568.)

Prior Codifications. — 1981 Ed., § 2-2812.
Legislative history of Law 5-84. — For

legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 11-129. — Law 11-129, the “Human Remains Decisions Amendment Act of 1996,” was introduced in Council and Assigned Bill No. 11-399, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 6, 1996, and March 5, 1996, respectively. Signed

by the mayor on March 15, 1996, it was assigned Act No. 11-236 and transmitted to both Houses of Congress for its review. D. C. Law 11-129 became effective on May 24, 1996.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor’s Order 87-186, August 3, 1987.

§ 3-413. Claim of human remains — Order of priority of next of kin.

(a) Unless other directions have been given by the decedent, the right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services shall vest in the following in the order of priority named:

(1) The competent surviving spouse, or domestic partner, as defined under § 32-701(3);

(2) The sole surviving competent adult child of the decedent, or if there is more than one competent child of the decedent, the majority of the surviving competent adult children; provided, that less than a majority of the surviving competent adult children shall be vested with the rights and duties under this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by more than a majority of all surviving competent adult children;

(3) The surviving competent parent or parents of the decedent; provided, that if one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties under this section if reasonable efforts to locate the other parent are unsuccessful;

(4) The surviving competent adult person in the next degrees of kindred; provided, that if there is more than one surviving competent adult person of the same degree of kindred, the rights and duties under this section shall be vested in the majority of those persons; provided further, that less than the majority of surviving competent adult persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions by more than a majority of all surviving competent adult persons of the same degree of kindred; and

(5) An adult friend or volunteer.

(b)(1) Any competent adult may decide the disposition of the individual’s remains after death and without the pre-death or post-death consent of any other person by executing a document, in accordance with this section, which expresses the individual’s wishes regarding the disposition of his or her body.

(2)(A) Notwithstanding any other provision of this section, any competent adult may designate an individual who shall be empowered to make decisions concerning the disposition of the human remains of the individual by executing a document in accordance with this section.

(B) The document shall include language that clearly communicates the individual's intent to have the person so designated make decisions regarding the disposition of the individual's human remains upon death. The document shall become effective upon the death of the individual choosing the representative.

(c) A document executed under subsection (b)(1) and (2) of this section shall be dated and signed by the individual delineating the disposition of his or her remains upon death under subsection (b)(1) of this section or designating a representative under subsection (b)(2) of this section.

(d) A person may revoke the document executed under this section in writing, at any time.

(e) A document executed under this section may be included as part of a document executed in accordance with subchapter II-A of Chapter 15 of Title 7.

(May 22, 1984, D.C. Law 5-84, § 14, 31 DCR 1815; May 24, 1996, D.C. Law 11-129, § 2(b), 43 DCR 1568; Oct. 3, 2001, D.C. Law 14-28, § 902(a), 48 DCR 6981; Apr. 15, 2008, D.C. Law 17-145, § 30(a), 55 DCR 2532; Mar. 25, 2009, D.C. Law 17-353, § 230(f), 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-2813.

Effect of amendments. — D.C. Law 14-28 rewrote subsec. (a) which had read as follows: "(a) The oldest adult member of each class shall have prior claim of the human remains over the others in the same class, as follows: Spouse, adult child, father, mother, adult brother, adult sister, adult grandchild, adult nephew or niece, paternal grandparent, maternal grandparent, paternal uncle or aunt, maternal uncle or aunt, adult child of paternal uncle or aunt or adult child of maternal uncle or aunt, paternal great-grandparent, maternal great-grandparent, brother or sister of paternal grandparent, brother or sister of maternal grandparent, kindred of the spouse of the deceased in accordance with the preceding order of priority, or any adult friend or volunteer."

D.C. Law 17-145, in subsec. (e), substituted "subchapter II-A of Chapter 15 of Title 7" for "subchapter II of Chapter 15 of Title 7".

D.C. Law 17-353 validated a previously made technical correction in subsec. (e).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of Funeral Services Temporary Amendment Act of 2000 (D.C. Law 13-219, April 3, 2001, law notification 48 DCR 3461).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of the Funeral Services Emergency Amendment Act

of 2000 (D.C. Act 13-445, November 7, 2000, 47 DCR 9209).

For temporary (90 day) addition of § 3-413.01, see § 2(b) of the Funeral Services Emergency Amendment Act of 2000 (D.C. Act 13-445, November 7, 2000, 47 DCR 9209).

For temporary (90 day) amendment of section, see § 2(a) of Funeral Services Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-8, March 2, 2001, 48 DCR 2487).

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 11-129. — For legislative history of D.C. Law 11-129, see Historical and Statutory Notes following § 3-401.

Legislative history of Law 14-28. — For Law 14-28, see notes following § 3-101.

Legislative history of Law 17-145. — Law 17-145, the "Uniform Anatomical Gift Revision Act of 2008", was introduced in Council and assigned Bill No. 17-58 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on January 8, 2008, and February 5, 2008, respectively. Signed by the Mayor on February 25, 2008, it was assigned Act No. 17-311 and transmitted to both Houses of Congress for its review. D.C. Law 17-145 became effective on April 15, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

CASE NOTES

In general.

Under District of Columbia law, common law

right to possess, preserve and bury, or otherwise dispose of, decedent's dead body only vests

in decedent's surviving spouse, and does not extend to other members of decedent's family, even if there is no surviving spouse. *Ross v. DynCorp*, 362 F.Supp.2d 344, 2005 U.S. Dist. LEXIS 5204 (2005).

Under District of Columbia law, surviving spouse's common law right to possess, preserve and bury, or otherwise dispose of, decedent's dead body is only actionably violated where decedent's surviving spouse is permanently deprived of possession of decedent's remains. *Ross v. DynCorp*, 362 F.Supp.2d 344, 2005 U.S. Dist. LEXIS 5204 (2005).

Under District of Columbia common law, deceased's surviving spouse has common law right to possess, preserve and bury, or other-

wise dispose of, dead body. *Ross v. DynCorp*, 362 F.Supp.2d 344, 2005 U.S. Dist. LEXIS 5204 (2005).

Superior Court's reopening of judgment which named woman as decedent's spouse for limited purpose of receiving body to include ruling that woman was lawful surviving spouse for all purposes could not be based on court's authority to correct clerical mistakes in judgment, where court's previous order specifically included words "for the limited purpose of this hearing," and provided no more than an order for release of body. Civil Rule 60(a). *Clement v. District of Columbia Dep't of Human Servs.*, 629 A.2d 1215, 1993 D.C. App. LEXIS 198 (1993).

§ 3-413.01. Disputes.

Disputes concerning the rights to the control or the disposition of the remains of a deceased person shall be resolved by a court of competent jurisdiction. In resolving a dispute, the court shall consider the following factors:

- (1) The reasonableness, practicality, and resources available for payment for the proposed arrangements and final disposition;
- (2) The degree of the personal relationship between the decedent and each of the persons in the same degree of relationship to the decedent;
- (3) The expressed wishes and directions of the decedent and the extent to which the decedent has provided resources for the purpose of carrying out those wishes or directions; and
- (4) The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.

(May 22, 1984, D.C. Law 5-84, § 14a, as added Oct. 3, 2001, D.C. Law 14-28, § 902(b), 48 DCR 6981.)

Temporary Addition of Section. — For temporary (225 day) addition, see § 2(b) of Funeral Services Temporary Amendment Act of 2000 (D.C. Law 13-219, April 3, 2001, law notification 48 DCR 3461).

Emergency legislation. — For temporary

(90 day) addition of section, see § 2(b) of Funeral Services Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-8, March 2, 2001, 48 DCR 2487).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 3-101.

§ 3-414. Services requiring direct supervision by funeral director.

The handling, preparation, or embalming of human remains which carried infectious or contagious diseases must at all times be done by a licensed funeral director, or in the case of an apprentice funeral director, under the direct supervision of a licensed funeral director.

(May 22, 1984, D.C. Law 5-84, § 15, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2814.
Legislative history of Law 5-84. — For

legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

§ 3-415. Courtesy cards for funeral directors licensed in Maryland or Virginia.

The Mayor shall issue rules and regulations pursuant to § 3-403(i) [repealed] which shall prescribe the terms and conditions under which the District may grant courtesy cards to funeral directors duly licensed in the State of Maryland or the Commonwealth of Virginia. Courtesy cards shall be limited to authorizing a funeral director licensed in either state to enter the District for the purposes of filing the death certificate of a deceased person or transporting human remains to the state where the funeral director is licensed in order to perform funeral services. Courtesy cards shall not permit a funeral director licensed in Maryland or Virginia but not licensed in the District to maintain an office or agent in the District or to advertise in any manner in the District as practicing funeral directing in the District.

(May 22, 1984, D.C. Law 5-84, § 16, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2815. legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.
Legislative history of Law 5-84. — For

§ 3-416. Change of address of licensee.

(a) Any person holding a funeral director's license or an apprentice funeral director's license shall, within 5 days after any change of business or residence address, notify the Mayor in writing of the change.

(b) Any person holding a funeral services establishment license shall, within 5 days after any change of ownership or percentage of ownership, or location of establishment, notify the Mayor in writing of the change.

(May 22, 1984, D.C. Law 5-84, § 17, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2816. legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.
Legislative history of Law 5-84. — For

§ 3-417. Penalties.

Any person who violates any provision of this chapter, or rules or regulations issued pursuant to this chapter shall, upon conviction thereof, be subject to a fine of not less than \$300 or more than \$1,000, or imprisonment for not more than 90 days, or both. Each act of unlawful practice shall constitute a distinct and separate offense. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or the rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.

(May 22, 1984, D.C. Law 5-84, § 18, 31 DCR 1815; Oct. 5, 1985, D.C. Law 6-42, § 404, 32 DCR 4450.)

Prior Codifications. — 1981 Ed., § 2-2817. legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.
Legislative history of Law 5-84. — For

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

§ 3-418. Prosecutions.

(a) Prosecution for violation of any provision of this chapter shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or his or her assistant.

(b) In order to constitute a violation under this chapter, it shall be necessary to prove in any prosecution or hearing only a single act prohibited by law without proving a general course of conduct.

(May 22, 1984, D.C. Law 5-84, § 19, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2818.
Legislative history of Law 5-84. — For

legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

§ 3-419. Injunctions.

Whenever the Mayor finds that any person has engaged in, or is about to engage in, the unlawful practice of funeral directing or apprentice funeral directing, the unlawful operation of a funeral services establishment, or any act which constitutes or will constitute a violation of any provision of this chapter or rules and regulations issued pursuant thereto, the Mayor may make application to the Superior Court of the District of Columbia for an order enjoining unlawful practice or act. Upon a showing by the Mayor that person has engaged in, or is about to engage in, any unlawful practice or act, an injunction, restraining orders, or other orders as may be appropriate may be granted by the Court without bond.

(May 22, 1984, D.C. Law 5-84, § 20, 31 DCR 1815.)

Prior Codifications. — 1981 Ed., § 2-2819.

Emergency legislation. — For temporary (90 day) addition of § 3-420, see § 2(c) of the Funeral Services Emergency Amendment Act of 2000 (D.C. Act 13-445, November 7, 2000, 47 DCR 9209).

Legislative history of Law 5-84. — For legislative history of D.C. Law 5-84, see Historical and Statutory Notes following § 3-401.

Delegation of Authority. — Delegation of authority pursuant to Law 5-84, see Mayor's Order 87-186, August 3, 1987.

§ 3-420. Rules.

The Mayor may promulgate rules consistent with this chapter.

(May 22, 1984, D.C. Law 5-84, § 22a, as added Oct. 3, 2001, D.C. Law 14-28, § 902(c), 48 DCR 6981.)

Temporary Addition of Section. — For temporary (225 day) addition of section, see § 2(c) of Funeral Services Temporary Amendment Act of 2000 (D.C. Law 13-219, April 3, 2001, law notification 48 DCR 3461).

Emergency legislation. — For temporary (90 day) addition of section, see § 2(c) of Funeral Services Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-8, March 2, 2001, 48 DCR 2487).

Legislative history of Law 14-28. — For Law 14-28, see notes following § 3-101.

§ 3-421. Services requiring immediate supervision by a funeral director.

An apprentice funeral director shall not perform the following services unless he or she is under the immediate supervision of a licensed funeral director:

- (1) The handling, preparation, or embalming of human remains;
- (2) The removal or transport of human remains;
- (3) Conducting or directing a funeral; or
- (4) Advising consumers making arrangements for the care and disposition of human remains, including arrangements made prior to the death of a person.

(May 22, 1984, D.C. Law 5-84, § 22b, as added Sept. 24, 2010, D.C. Law 18-223, § 2082(e), 57 DCR 6242.)

Cross references. — Licensure, non-health related occupations and professions, see § 47-2853.04.

Emergency legislation. — For temporary (90 day) addition of section, see § 2082(e) of

Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 18-223. — For Law 18-223, see notes following § 3-402.

CHAPTER 5. BOARD OF VETERINARY EXAMINERS.

Subchapter I. General

Sec.

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3-531 to 3-542. [Repealed].

*Subchapter I. General.***§ 3-501. Purposes.**

The purposes of this subchapter are to regulate the practice of veterinary medicine in the District of Columbia, to protect the public from the practice of veterinary medicine by unqualified persons, and to protect the public from unprofessional conduct by persons licensed to practice veterinary medicine.

(Mar. 9, 1983, D.C. Law 4-171, § 2, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2721.

Legislative history of Law 4-171. — Law 4-171, the “Veterinary Practice Act of 1982,” was introduced in Council and assigned Bill No. 4-232, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on September 21, 1982, and October 19, 1982, respectively. Signed by the Mayor on November 19, 1982, it was assigned Act No. 4-249 and transmitted to both Houses of Congress for its review.

Delegation of Authority. — Delegation of authority pursuant to Law 4-171, see Mayor’s Order 86-117, July 21, 1986.

Delegation of authority pursuant to Law 4-171, Mayor’s Order 86-117 rescinded, see Mayor’s Order 88-112, May 9, 1988.

Delegation of authority pursuant to D.C. Law 4-171, the “Veterinary Practice Act of 1982”, see Mayor’s Order 2007-60, February 28, 2007 (54 DCR 2437).

§ 3-502. Definitions.

As used in this subchapter, the term:

(1) “Animal” means any animal other than man and includes fowl, birds, fish, and reptiles, wild or domestic.

(2) “Animal facility” means any fixed or mobile establishment, veterinary hospital, animal hospital, or premises wherein the practice of veterinary medicine or any part thereof is practiced.

(3) “Animal technician” means a person certified by the Mayor to perform the duties specified in § 3-512.

(4) “Board” means the Board of Veterinary Examiners established by § 3-505.

(5) “Consumer” means an individual:

(A) Who is not a direct provider of veterinary medical care;

(B) Whose current primary activity is not in the provision of veterinary medical care or the administration of facilities or institutions providing veterinary medical care; and

(C) Who does not receive directly nor indirectly more than 10% of his or her gross annual income from any one or combination of the following:

(i) Fees or other compensation for research into or instruction in the provision of veterinary medical care;

(ii) Entities engaged in the provision of veterinary medical care or in the research or instruction of veterinary medical care;

(iii) Producing or supplying drugs or other articles for individuals or entities to use in the provision of, or research into, or instruction in, the provision of veterinary medical care.

(6) "Council" means the Council of the District of Columbia.

(7) "Direct supervision" means that a veterinarian currently licensed to practice veterinary medicine in the District is available on the premises and within immediate vocal communication of the supervisee.

(8) "District" means the District of Columbia.

(9) "License" means a valid license to practice veterinary medicine in the District.

(10) "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine in the District.

(11) "Mayor" means the Mayor of the District of Columbia, or the Mayor's designated agent.

(12) "Person" means any individual, firm, partnership, association, or any group or combination thereof acting in concert, whether acting as a principal, trustee, fiduciary, receiver, or any other kind of legal or personal representative; or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of the person.

(13) "Practice of veterinary medicine" means the practice engaged in by anyone:

(A) Who professes publicly to be a veterinary doctor and offers to practice as a veterinary doctor;

(B) Who, for hire, fee, compensation, or reward, promised, offered, received, or expected, either directly or indirectly, diagnoses, prognoses, treats, prescribes any controlled substance medicine or other treatment, prescribes, operates, or manipulates, or applies any apparatus or appliance for the prevention, cure, or relief of any disease, pain, deformity, defect, injury, wound, or physical condition of an animal, or for the prevention of, or to test for the presence of, any disease of an animal, or performs a surgical, medical, or dental procedure, or renders surgical, medical, or dental aid to, for, or upon an animal; or who holds himself or herself out as being legally qualified or authorized to do so; or

(C) Who uses any words, letters, or titles in connection with or under circumstances as to induce the belief that the person so using them is engaged in or legally qualified or authorized to engage in the practice of veterinary medicine. The practice of veterinary medicine does not include any of the activities described in § 3-512.

(14) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine, or its equivalent, and that conforms to the standards required for accreditation by the American Veterinary Medical Association.

(15) "Veterinarian" means a person who is a graduate of a school of veterinary medicine and has received a doctorate degree in veterinary medicine, or its equivalent.

(16) "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

(Mar. 9, 1983, D.C. Law 4-171, § 3, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2722. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-503. Persons previously licensed.

Any person licensed to engage in the practice of veterinary medicine in the District under An Act To regulate the practice of veterinary medicine in the District of Columbia, approved February 1, 1907 (34 Stat. 870) shall be considered to be licensed under this subchapter.

(Mar. 9, 1983, D.C. Law 4-171, § 4, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2723. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-504. Animal facility license required.

All individuals establishing, maintaining, or operating an animal facility, as defined in § 3-502(2), must be licensed by the Mayor.

(Mar. 9, 1983, D.C. Law 4-171, § 5, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2724. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-505. Board of Veterinary Examiners; duties of Mayor.

(a) There is established a Board of Veterinary Examiners for the District of Columbia.

(b) The Board shall advise the Mayor with respect to:

(1) The professional and technical aspects of the examining, licensing, registration, and regulation of veterinarians in the District of Columbia;

(2) The regulation, inspection, and registration of all establishments and premises wherein or whereon veterinary medicine is practiced; and

(3) The prescription of reasonable standards of conduct and ethics for the practice of veterinary medicine and for animal technicians.

(c) The Board shall consist of 5 members appointed by the Mayor with the advice and consent of the Council. Four members of the Board shall be licensed veterinarians and one member shall be a consumer. No full-time or part-time

officer or member of any school of veterinary medicine shall be eligible for appointment to the Board.

(d) Any person appointed to the Board who is employed by the federal or District governments shall not be entitled to receive additional compensation as a Board member.

(e) The consumer members of the Board shall be residents of the District and shall be at least 18 years of age. They shall have all the powers that other Board members have except those relating to examination for licensure.

(f) The licensed veterinarian members of the Board shall at the time of their appointment and throughout their terms:

(1) Be licensed in the District and be in good standing to engage in the practice of veterinarian medicine in the District;

(2) Have had 3 years of experience in the practice of veterinary medicine in the District following licensure; and

(3) Be residents of the District.

(g) Of the members first appointed to the Board under subsection (b) of this section, 2 licensed members shall be appointed to serve terms of 3 years. The 2 licensed members and one consumer member whose nominations to the Board were deemed approved by the Council on January 13, 2003, shall continue to serve the remainder of their 3-year terms after March 30, 2004.

(h) Members of the Board appointed by the Mayor subsequent to the 1st appointments under this subchapter shall serve a term of 3 years; except, that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve only the unexpired portion of the former member's term.

(i) Repealed.

(j) Any vacancy which occurs in the membership of the Board for any reason, including expiration of a term, removal, resignation, death, disability, or disqualification, shall be filled by a person appointed by the Mayor as provided in subsection (c) of this section. The Mayor shall appoint a new member to fill a vacancy for the unexpired portion of the term after the vacancy occurs.

(k) The Mayor shall designate a Chairperson from the Board members. The Board shall elect other officers as are necessary to conduct its business. The Chairperson of the Board shall preside at all Board meetings and shall be responsible for the performance of all the duties and functions of the Board.

(l) The Mayor shall delegate to the Board those responsibilities which the Mayor deems appropriate.

(m) The Mayor shall issue rules within 120 days of March 9, 1983. The Mayor may amend the rules to carry out the provisions of this subchapter, including, but not limited to, standards for animal facilities; such as the grounds, department areas, examination rooms, surgery, laboratory, drug procedures and storage, recordkeeping, and radiology.

(n) The Mayor shall make studies and investigations as the Mayor deems necessary in preparing rules and orders and in assisting in the administration and enforcement of this subchapter.

(o) The Mayor shall conduct hearings as provided in § 3-510, upon written charges that may result in discipline, revocation, suspension, or denial of a license.

(p) The Mayor shall keep a record of all Board meetings and an official register of all animal facilities and all licensed veterinarians, including applicants for licensure.

(q) The Mayor shall periodically inspect all animal facilities.

(r) Members of the Board shall be compensated as provided in § 1-611.08.

(Mar. 9, 1983, D.C. Law 4-171, § 6, 29 DCR 5297; Mar. 30, 2004, D.C. Law 15-107, § 2, 51 DCR 1338; Apr. 13, 2005, D.C. Law 15-354, § 87, 52 DCR 2638.)

Prior Codifications. — 1981 Ed., § 2-2725.

Effect of amendments. — D.C. Law 15-107, rewrote subsecs. (c) and (g); and repealed subsec. (i).

D.C. Law 15-354, in subsec. (g), validated a previously made technical correction.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of Board of Veterinary Examiners Temporary Amendment Act of 2003 (D.C. Law 15-47, December 9, 2003, law notification 51 DCR 1782).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of Board of Veterinary Examiners Emergency Amendment Act of 2003 (D.C. Act 15-127, July 29, 2003, 50 DCR 6833).

For temporary (90 day) amendment of section, see § 2 of Board of Veterinary Examiners Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-211, November 7, 2003, 50 DCR 10004).

For temporary (90 day) amendment of section, see § 2 of Board of Veterinary Examiners Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-325, January 28, 2004, 51 DCR 1590).

Legislative history of Law 4-171. — For legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

Legislative history of Law 15-107. — Law 15-107, the “Board of Veterinary Examiners Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-149, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 2, 2003, and January 6, 2004, respectively. Signed by the Mayor on January 27, 2004, it was assigned Act No. 15-196 and transmitted to both Houses of Congress for its review. D.C. Law 15-107 became effective on March 30, 2004.

Legislative history of Law 15-354. — Law 15-354, the “Technical Amendments Act of 2004”, was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

Delegation of Authority. — Delegation of authority, see Mayor’s Order 88-112, May 9, 1988.

Editor’s notes. — Subsections (b) through (r) of this section are subsections (a) through (q), respectively, as enacted by D.C. Law 4-171.

§ 3-506. Fees; expiration date of licenses.

(a) The Mayor shall establish, increase, or decrease, fees as may be necessary to cover the costs of administering this subchapter. The Mayor shall not revise the fees prior to the Mayor giving a 30-day notice of the intended fee change.

(b) The Mayor may, after a 30-day notice, establish and change, as may be necessary, the expiration date of licenses provided for in this subchapter. Upon the change of an expiration date, the renewal fee for licenses shall be prorated on the basis of the time covered.

(Mar. 9, 1983, D.C. Law 4-171, § 7, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2726.

Legislative history of Law 4-171. — For

legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

§ 3-507. Qualifications for issuance of license.

(a) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue a license to engage in the practice of veterinary medicine in the District to any person:

(1) Who is a graduate of a school of veterinary medicine approved by the Mayor;

(2) Who has passed an examination as may be prescribed by the Mayor to determine the person's competence to engage in the practice of veterinary medicine; and

(3) Who has not been found in violation of any of the provisions of § 3-509.

(b) The Mayor may waive the examination required by subsection (a) (2) of this section and may, upon receipt of a properly completed application and the requisite fees, issue a license to any person who:

(1) Has passed an examination and who is licensed as a veterinarian in any state or territory of the United States wherein the requirements for licensure are substantially the same as those in effect in the District (as determined by the Mayor), and which state or territory admits licensed veterinarians of the District without examination;

(2) Is currently holding a license in good standing as a veterinarian in any state or territory of the United States; and

(3) Meets the qualifications specified in paragraphs (1) and (3) of subsection (a) of this section.

(c) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue an annual license to engage in the practice of veterinary medicine in the District to any graduate of a foreign school of veterinary medicine who has completed the following:

(1) Has graduated from a school of veterinary medicine;

(2) Has submitted to the Mayor proper credentials as may be determined in regulations issued by the Mayor; and

(3) Has passed a written examination as may be required by the Mayor to determine the person's competency to engage in the practice of veterinary medicine.

(Mar. 9, 1983, D.C. Law 4-171, § 8, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2727. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-508. License renewal.

(a) Every license issued by the Mayor in accordance with the provisions of this subchapter shall be subject to renewal as determined by the Mayor. Any person who engages in the practice of veterinary medicine after the expiration of his or her license and who shall willfully or by neglect fail to renew his or her license shall be in violation of this subchapter.

(b) The Mayor may establish continuing education requirements that must be met by licensed veterinarians and all applications for renewal shall be

accompanied by evidence of compliance with continuing education requirements.

(c) The failure of the licensee to furnish evidence required by subsection (b) of this section upon application for renewal shall constitute grounds for revocation, suspension, or refusal to renew such license unless the Mayor determines that the failure to furnish the evidence was the result of excusable neglect.

(Mar. 9, 1983, D.C. Law 4-171, § 9, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2728. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-509. Denial, suspension, or revocation of licenses; grounds; reinstatement.

(a) The Mayor may suspend, revoke, refuse to issue, renew, or restore a license issued under this subchapter if the Mayor finds that the applicant or holder thereof:

(1) Has engaged in any fraud or deceit in procuring or attempting to procure a license provided for pursuant to this subchapter;

(2) Has been convicted of a felony or other crime involving moral turpitude;

(3) Is a chronic alcoholic as defined in § 24-602, or is a drug user as defined in § 24-702;

(4) Uses advertising or solicitation which is false, misleading, or which is determined by the Mayor to be unprofessional;

(5) Has demonstrated incompetence or gross negligence in the practice of veterinary medicine;

(6) Has knowingly employed a person who is practicing veterinary medicine unlawfully;

(7) Has practiced fraud or dishonesty in the application or reporting of any tests for animal disease;

(8) Has failed to maintain his premises and equipment in a safe, clean, and sanitary condition;

(9) Has failed to report, as required by law, or has made a false report of, any contagious or infectious disease;

(10) Has been grossly negligent in the inspection of food-stuffs or the issuance of health or inspection certificates;

(11) Has practiced cruelty to animals;

(12) Has had his or her license to practice veterinary medicine in another state revoked or suspended on grounds other than nonpayment of the license fee; or

(13) Has demonstrated unprofessional conduct as specified in rules issued by the Mayor.

(b) Any denial, suspension, or revocation under this section shall be made only upon specific charges in writing and after proper notice and a hearing as provided in § 3-510.

(c) The Mayor may reinstate a license which has previously been revoked upon application in writing and after an opportunity for a hearing. No application for reinstatement of a license shall be accepted by the Mayor before the expiration of at least 1 year following the date on which the applicant's license was revoked.

(Mar. 9, 1983, D.C. Law 4-171, § 10, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2729. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-510. Hearing procedures.

When a written complaint alleging a violation under this subchapter has been filed with the Mayor, the Mayor shall initiate an investigation within 30 days, and, absent compelling circumstances, shall conclude the investigation within 90 days. If warranted, the Mayor shall fix a time and place for a hearing in accordance with § 2-509. The Mayor shall cause a certified copy of the charges to be served on the respondent by registered mail at least 20 days prior to the hearing. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoena. The Mayor shall follow the provisions of § 2-509 in conducting hearings under this section. If the respondent is found in violation of this subchapter, the Mayor may refuse to issue the respondent a license, or may refuse to renew the license of the respondent, or may revoke or suspend the license of the respondent.

(Mar. 9, 1983, D.C. Law 4-171, § 11, 29 DCR 5297; Dec. 5, 2008, D.C. Law 17-281, § 101(a), 55 DCR 9186.)

Prior Codifications. — 1981 Ed., § 2-2730.
Effect of amendments. — D.C. Law 17-281 substituted “investigation within 30 days, and, absent compelling circumstances, shall conclude the investigation within 90 days. If warranted, the Mayor shall” for “investigation and, if warranted,”.
Legislative history of Law 4-171. — For legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 17-281. — Law 17-281, the “Animal Protection Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-89 which was referred to the Committees on Health and Public Safety and Judiciary. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-493 and transmitted to both Houses of Congress for its review. D.C. Law 17-281 became effective on December 5, 2008.

§ 3-511. Appeal procedures.

Any person aggrieved by any final decision or order of the Mayor denying, suspending, or revoking any license or renewal of a license issued or applied for under this subchapter may obtain a review thereof pursuant to § 2-510.

(Mar. 9, 1983, D.C. Law 4-171, § 12, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2731. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-512. Certification of animal technicians.

The Mayor may provide for the certification of animal technicians to perform, in the employ of a person licensed to practice veterinary medicine and under his or her immediate and direct supervision and control, acts relating to maintenance of the health of or treatment of any animal. No person certified as an animal technician may receive compensation for such acts other than such salary as he or she may be paid by the employing veterinarian. No person certified as an animal technician may perform surgery, diagnose or prescribe medication for any animal.

(Mar. 9, 1983, D.C. Law 4-171, § 13, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2732. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-512.01. Permitted practice without a license; exemption for services provided during emergency.

(a) If under the direct supervision of a licensed veterinarian, the following persons may engage in the practice of veterinary medicine without a license:

(1) Students who are fulfilling requirements for a degree in veterinary medicine from a school of veterinary medicine approved by the Mayor; and

(2) Graduates of a school of veterinary medicine approved by the Mayor whose first District of Columbia license application is pending.

(b) A veterinarian licensed in Maryland or Virginia shall be permitted to practice veterinary medicine in the District for a period not to exceed 120 hours annually if the veterinarian:

(1) Has practiced veterinary medicine for a minimum of 2 years; and

(2) Is in good standing with his or her veterinarian boards.

(c) This subchapter shall not prohibit the provision of veterinary services by an individual who is authorized to provide those services under Chapter 23C of Title 7 [§ 7-2361.01 et seq.], while an emergency declaration is in effect.

(Mar. 9, 1983, D.C. Law 4-171, § 13a, as added Dec. 5, 2008, D.C. Law 17-281, § 101(b), 55 DCR 9186; July 1, 2010, D.C. Law 18-184, § 14(b), 57 DCR 3655.)

Effect of amendments. — D.C. Law 18-184, in the section heading, inserted “; exemption for services provided during emergency”; and added subsec. (c).

Legislative history of Law 17-281. — For Law 17-281, see notes following § 3-510.

Legislative history of Law 18-184. — For Law 18-184, see notes following § 3-411.

§ 3-512.02. Issuance of animal license; collection of fees.

A licensed veterinarian is authorized to issue animal licenses and to collect the required fees and may collect an additional \$2 for each license issued as reimbursement for administrative costs.

(Mar. 9, 1983, D.C. Law 4-171, § 13b, as added Dec. 5, 2008, D.C. Law 17-281, § 101(b), 55 DCR 9186.)

Legislative history of Law 17-281. — For Law 17-281, see notes following § 3-510.

§ 3-513. Exceptions.

Nothing in this subchapter shall be construed as applying to:

- (1) An employee or agent of the federal or District governments while performing his or her official duties; except, that no such employee may be authorized to perform surgical operations;
- (2) A member of the faculty of a school of veterinary medicine while performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school in connection with a continuing education course;
- (3) Experimentation and scientific research in connection with the study and the development of methods and techniques, directly or indirectly related or applicable to the problems or to the practice of veterinary medicine, when conducted under the auspices of the federal or District governments;
- (4) A physician licensed to practice medicine in the District or to the licensed physician's assistant while engaged in educational research under the direct supervision of the licensed veterinarian;
- (5) A person who is a regular student in a school of veterinary medicine performing duties or actions assigned by his or her instructor, or working under direct supervision of a licensed veterinarian during a school vacation period;
- (6) A veterinarian regularly licensed in any state from consulting with a licensed veterinarian in the District;
- (7) The owner of an animal, or the owner's full-time regular employee, from caring for and treating the ills and injuries of any animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing this subchapter;
- (8) Any merchant or manufacturer from selling, at his or her regular place of business, medicine, feed, appliances, or other products used in the prevention or treatment of animal diseases;
- (9) Any person selling or applying any pesticide, insecticide, or herbicide;
- (10) Any person approved by the Mayor to perform animal artificial insemination; or
- (11) Any person engaging in scientific research which reasonably requires experimentation involving animals covered under the provisions of 7 U.S.C. § 2131 et seq.

(Mar. 9, 1983, D.C. Law 4-171, § 14, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2733. legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.
Legislative history of Law 4-171. — For

§ 3-514. Prohibited acts.

It shall be unlawful for any person in the District to:

- (1) Engage in the practice of veterinary medicine unless the person is duly licensed to practice veterinary medicine pursuant to this subchapter;

(2) Practice or offer to practice veterinary medicine under any name except the name in which he or she is licensed by the Mayor;

(3) Engage in the practice of veterinary medicine without having his or her license and current renewal card conspicuously displayed in the office in which he or she practices;

(4) Sell or offer to sell a diploma conferring a veterinary medicine degree, a certificate granted for post graduate work, or a license granted pursuant to authority contained in this subchapter;

(5) Fraudulently procure a diploma, certificate, or any other evidence of satisfactory completion of the required educational and professional training for becoming a licensee under this subchapter; or to use such a fraudulently altered document in order to obtain a license to engage in the practice of veterinary medicine;

(6) Alter, with fraudulent intent, any diploma, certificate, license or any other evidence of satisfactory completion of the required educational or professional training for becoming a licensee under this subchapter; or to use such fraudulently altered document in order to obtain a license to engage in the practice of veterinary medicine;

(7) Practice veterinary medicine under a false name, or assume a title, or append or prefix to his or her name letters which falsely represent him or her as having a degree from a school of veterinary medicine, or make use of the words "veterinary college" or "veterinary school" or equivalent words, when not lawfully authorized to do so;

(8) Use, in connection with his or her name, any title, words, abbreviations, or letters in a manner or under circumstances which tend to induce the belief that the person using them is qualified to do any act described in § 3-502(13), except where such person is a licensed veterinarian;

(9) Impersonate another at any examination held by the Mayor, or knowingly make a false application or misrepresentation in connection with such examination;

(10) Accept any fee, rebate, refund, commission or unearned discount, whether in the form of money or otherwise, as compensation for referring animals to any person in connection with the furnishing of veterinary care or service, diagnosis, treatment, or medication.

(Mar. 9, 1983, D.C. Law 4-171, § 15, 29 DCR 5297; Mar. 14, 1985, D.C. Law 5-159, § 10, 32 DCR 30.)

Prior Codifications. — 1981 Ed., § 2-2734.

Legislative history of Law 4-171. — For legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

Legislative history of Law 5-159. — Law 5-159, the "End of Session Technical Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-540, which was referred

to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

§ 3-515. Penalties.

(a) Any person who violates this subchapter, which includes, but is not

limited to, §§ 3-509 and 3-513, or rules issued pursuant to this subchapter, shall, upon conviction thereof, be subject to a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than 90 days, or both. Each act of unlawful practice shall constitute a separate offense.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules and regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

(Mar. 9, 1983, D.C. Law 4-171, § 16, 29 DCR 5297; Mar. 8, 1991, D.C. Law 8-237, § 3, 38 DCR 314.)

Prior Codifications. — 1981 Ed., § 2-2735.

Legislative history of Law 4-171. — For legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

Legislative history of Law 8-237. — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned

Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

§ 3-516. Prosecutions.

(a) Prosecution for violation of any provision of this subchapter shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or his or her assistant.

(b) It shall be necessary to prove in any prosecution or hearing under this subchapter only a single act prohibited by law without proving a general course of conduct, in order to constitute a violation.

(Mar. 9, 1983, D.C. Law 4-171, § 17, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2736.

Legislative history of Law 4-171. — For

legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

§ 3-517. Injunctions.

Whenever the Mayor finds that any person has engaged in, or is about to engage in, the unlawful practice of veterinary medicine or any act which constitutes or will constitute a violation of any provision of this subchapter, the Mayor may make application to the Superior Court of the District of Columbia for an order enjoining such unlawful practice or act and upon a showing by the Mayor that the person has engaged in or is about to engage in any unlawful practice or act, an injunction, restraining order, or other orders as may be appropriate shall be granted by the Court without bond.

(Mar. 9, 1983, D.C. Law 4-171, § 18, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., § 2-2737.

Legislative history of Law 4-171. — For

legislative history of D.C. Law 4-171, see Historical and Statutory Notes following § 3-501.

Subchapter II. Repealed Provisions.

§§ 3-531 to 3-542. Board of Examiners in Veterinary Medicine — created; appointment; composition; qualifications; term of office; vacancies; removal; officers; meetings; records; bond; annual report; application for license; collection and disposition of fees; examinations; issuance of licenses; reciprocity; exemptions from examination or fee; appeal from refusal of license; Board of Review; display of license; inspection of place of business; persons regarded as practitioners; exemptions from chapter; revocation or suspension of license; penalties; prosecutions. [Repealed].

Repealed.

(Mar. 9, 1983, D.C. Law 4-171, § 20, 29 DCR 5297.)

Prior Codifications. — 1981 Ed., §§ 2-2701 to 2-2712.

CHAPTER 6. BOXING AND WRESTLING COMMISSION.

Sec.

3-601. Purpose.

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3-607. Administration.

3-608. Violations of Commission rules; penalties.

3-609. Liability of Commission members.

3-610. Protective equipment; rules.

§ 3-601. Purpose.

It is the purpose of this chapter to create a Boxing and Wrestling Commission for the District of Columbia with the authority to promulgate rules and regulations, to promote the District of Columbia as a location for boxing, wrestling and martial arts events, and to regulate boxing and wrestling within its jurisdiction.

(Oct. 8, 1975, D.C. Law 1-20, § 2, 23 DCR 1806; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Sept. 29, 1988, D.C. Law 7-169, § 2(a), 35 DCR 5749.)

Prior Codifications. — 1981 Ed., § 2-601. 1973 Ed., § 2-1231.

Legislative history of Law 1-20. — Law 1-20, the "Boxing and Wrestling Commission Act of 1975," was introduced in Council and assigned Bill No. 1-26, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 3, 1975, and June 17, 1975, respectively. Signed by the Mayor on July 11, 1975, it was assigned Act No. 1-31 and transmitted to both Houses of Congress for its review.

Legislative history of Law 1-50. — Law 1-50, the "District of Columbia Boxing and Wrestling Commission Act—Amendment of 1976," was introduced in Council and assigned Bill No. 1-168, which was referred to the Committee on Government Operations. The Bill

was adopted on first and second readings on October 21, 1975 and November 4, 1975, respectively. Signed by the Mayor on November 20, 1975, it was assigned Act No. 1-70 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-169. — Law 7-169, the "District of Columbia Boxing and Wrestling Commission Act Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-493, which was referred to the Committee of Public Services. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-225 and transmitted to both Houses of Congress for its review.

§ 3-602. Definitions.

For purposes of this chapter, the term or terms:

(1) "Person" means an individual, partnership, corporation, association, or club.

(2) "Mayor" and "Council" have the meanings given in § 1-201.03.

(3) "Commission" means the District of Columbia Boxing and Wrestling Commission.

(4) "School, college, or university" means every school, college, or university supported in whole or in part from public funds and every other school, college or university supported in whole or in part by a religious, charitable, scientific, literary, educational, or fraternal organization which is not operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(5) "Participants" means all boxers, wrestlers, performers of martial arts,

seconds, managers, matchmakers, promoters, referees, judges, timekeepers, announcers, ushers, ticket sellers, advertising and public relations personnel, and other persons that the Commission may designate who are involved or connected with, other than as a spectator, boxing, wrestling or martial arts contests, matches, exhibitions, or showings, professional as well as amateur, to be held, given, or shown within the District of Columbia.

(6) Repealed.

(7) Repealed.

(8) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(Oct. 8, 1975, D.C. Law 1-20, § 3, 23 DCR 1806; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Aug. 13, 1986, D.C. Law 6-137, § 2(a), 33 DCR 3798; Sept. 12, 2008, D.C. Law 17-231, § 9(a), 55 DCR 6758.)

Prior Codifications. — 1981 Ed., § 2-602.
1973 Ed., § 2-1232.

Effect of amendments. — D.C. Law 17-231 added par. (8).

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 6-137. — For legislative history of D.C. Law 6-137, see Historical and Statutory Notes following § 3-610.

Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

§ 3-603. Statement of authority.

The authority of the Council to establish a Boxing and Wrestling Commission is granted in subsections (a) and (b) of § 1-204.04.

(Oct. 8, 1975, D.C. Law 1-20, § 4, 23 DCR 1807.)

Prior Codifications. — 1981 Ed., § 2-603.
1973 Ed., § 2-1233.

Legislative history of Law 1-20. — For

legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

§ 3-604. Establishment of Commission.

(a) There is hereby created a District of Columbia Boxing and Wrestling Commission to consist of 3 members nominated by the Mayor and approved by the Council.

(b) Other than as provided in subsection (g) of this section, the term of office of a member of the Commission shall be 3 years.

(c) Whenever a vacancy on the Commission occurs before the end of a term, the Mayor, with the consent of the Council, may appoint a person to complete the remaining period of that term.

(d) A Commission member may be removed by resolution of the Council:

(1) For good cause shown; or

(2) Upon the written recommendation of the Mayor.

(e) The members of the Commission shall be residents of the District of Columbia for the duration of their term.

(f) The members of the Commission shall receive compensation pursuant to the provisions of § 1-611.08.

(g) The Mayor shall, within 30 days of October 8, 1975, nominate an

individual to serve as Chairperson of the Commission for 3 years, and 2 more individuals to serve as members for 2 years, and 1 year respectively. The Council shall confirm or reject these nominees within 90 days of their nomination, or, in the absence of such action, within 90 days, such nominees shall be deemed confirmed. When at least 2 members have been confirmed, the Commission shall be deemed established.

(Oct. 8, 1975, D.C. Law 1-20, § 5, 23 DCR 1808; June 9, 1976, D.C. Law 1-66, § 2, 23 DCR 498; Mar. 3, 1979, D.C. Law 2-139, § 3205(mm), 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2 (gg), 27 DCR 2632.)

Cross references. — Disclosure of financial interests, requirements, see § 1-1106.02.

Effective date provisions, see § 1-636.02.

Nomination and approval of agency heads, see § 1-523.01.

Prior Codifications. — 1981 Ed., § 2-604. 1973 Ed., § 2-1234.

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 1-66. — Law 1-66, the "District of Columbia Boxing and Wrestling Commission Nominee Confirmation Procedure Act of 1976," was introduced in Council and assigned Bill No. 1-219, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on January 27, 1976, and February 24, 1976, respectively. No action taken by the Mayor, it was assigned Act No. 1-98 and transmitted to both Houses of Congress for its review.

Legislative history of Law 2-139. — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-81. — Law 3-81, the "District of Columbia Government Comprehensive Merit Personnel Act Amendments of 1980," was introduced in Council and assigned Bill No. 3-236, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 22, 1980 and May 20, 1980, respectively. Signed by the Mayor on June 4, 1980, it was assigned Act No. 3-195 and transmitted to both Houses of Congress for its review.

§ 3-605. Jurisdiction.

(a) The Commission shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all boxing, wrestling, and martial arts contests, matches, exhibitions, and showings, professional as well as amateur, to be conducted, held, given, or shown within the District of Columbia. The Commission is hereby given control, authority, and jurisdiction over all licenses and permits to hold boxing, wrestling, and martial arts contests, matches, and exhibitions for prizes or purses or in which a fee or price in money or value is charged or for which revenue of any type is received, and over all licenses or permits to participants in boxing, wrestling, or martial arts contests, matches or exhibitions; this section shall not be construed, however, to preclude the Commission from differentiating between professional and amateur contests, matches, and exhibitions and charitable and profit-seeking ventures on a reasonable basis. The Commission shall establish the criteria and procedures for the granting of licenses and permits under its jurisdiction and shall promulgate such criteria in accordance with Chapter 5 of Title 2.

(b) The Commission may exempt schools, colleges, or universities and similar amateur events from any and all of its rules upon proper application by

such school, college, or university or by the manager or promoter of such amateur event.

(Oct. 8, 1975, D.C. Law 1-20, § 6, 23 DCR 1809; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Sept. 29, 1988, D.C. Law 7-169, § 2(b), 35 DCR 5749.)

Prior Codifications. — 1981 Ed., § 2-605. 1973 Ed., § 2-1235.

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 1-50. — For

legislative history of D.C. Law 1-50, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 7-169. — For legislative history of D.C. Law 7-169, see Historical and Statutory Notes following § 3-601.

§ 3-606. Powers.

(a) The Commission shall have the power to make, amend, carry out, and enforce such rules as it deems necessary for and likely to be effective in governing the events and procedures within its jurisdiction as well as all participants in such events and procedures. The Commission shall conduct its rulemaking and enforcement and other functions under the provisions of Chapter 5 of Title 2 where appropriate, and shall promulgate rules within 60 days of its establishment.

(b) The Commission shall have the power to issue permits and licenses to all participants, and for all events covered by this chapter. If the Commission, by rule, regulation, or order requires a license for a person or event covered by this chapter, no person shall hold, conduct, or be a participant in any such boxing, wrestling, or martial arts contest, match, or exhibition without a permit or license from the Commission. The Commission is authorized, in its sole judgment and discretion, to assign to those with proper permits, dates on which boxing, wrestling, and martial arts contests, matches, and exhibitions may be held, and no person shall hold any boxing, wrestling, or martial arts contest, match, or exhibition on any dates unless specifically authorized to do so by the Commission. No permit as described in this section shall be issued to any person unless such person agrees to accord to the Commission the right to examine the books of account and other records of such person relative to the boxing, wrestling, or martial arts contest, match, or exhibition for which such permit is issued, and such permit shall so state on its face. Licenses and permits may be revoked or suspended by the Commission for violation of any rule, regulation, or order of the Commission or for violation of any rule, regulation, or order of the District of Columbia or for other cause. The contested case provisions of §§ 2-509 and 2-510 shall be followed in revocation and suspension proceedings.

(c) The Commission shall have the power to collect fees for permits and licensure in an amount and in a manner that is reasonable in light of costs of administration and like charges imposed by other jurisdictions for similar licenses and that it shall determine with the approval of the Mayor. Any monies received but not expended at the end of a fiscal year shall lapse into the unrestricted fund balance of the General Fund of the District of Columbia.

(d) The Commission shall have the power to require all licensees and permittees to execute and file with the Commission a bond in an amount to be

determined by the Commission before such license or permit may be granted. Said bond shall be approved as to form and sufficiency of sureties by the Mayor, or by such official as he may designate. In case of default in such performance, recovery may be had on such bond in the same manner as other penalties are recovered by law.

(e) The Commission shall have the power to establish standards for, and the permitted circumstances of, rental or ownership of the premises where events within the jurisdiction of the Commission will or may occur. The Commission may also establish standards for all equipment of the Commission. The Commission may also provide for the inspection of such premises and equipment.

(f) The Commission shall have the power to assess nonlicense fees and fines payable to the Commission under this chapter or the Commission rules, and to require reports and manifests to be furnished the Commission relating to nonlicense fees.

(g) The Commission shall have the power to employ such personnel as is necessary to carry out this chapter.

(h) Each member of the Commission shall have the power to administer oaths and affirmations and examine witnesses concerning any matters within the jurisdiction of the Commission. The Commission shall be vested with power to issue subpoenas as to matters within its jurisdiction and enforce the same in the Superior Court of the District of Columbia.

(i) The Commission shall have the power to investigate all operations, occurrences, events, and persons within its jurisdiction, and any suspected violation of its orders or rules, or of this chapter.

(j) The Commission shall have the power to issue such orders (including suspensions of licenses and permits) to persons within its jurisdiction, which reasonably will:

(1) Assure compliance with this chapter, or the Commission's rules or orders;

(2) Prevent influence of organized crime in boxing and wrestling in the District of Columbia; or

(3) Encourage boxing and wrestling in the District.

(k) The Commission shall have the power, subject to the approval of the Mayor, to make or engage in contracts, agreements, or cooperative work with other District of Columbia agencies, or commissions or agencies of other states or cities governing boxing or wrestling, or private persons, when such contracts, agreements, or cooperative work will reasonably and lawfully carry out the purposes of this chapter.

(l) The Commission shall have the power to establish other rules and regulations concerning events and persons within its jurisdiction as it deems appropriate to encourage boxing and wrestling in the District of Columbia and for other purposes consistent with this chapter.

(m)(1) The Commission shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish standards for the operation of gymnasiums and other facilities used in the training of boxers, wrestlers, kickboxers, and practitioners of martial arts, shall implement these rules, and shall license all facilities as well as inspect all facilities and equipment subject to this subsection.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(Oct. 8, 1975, D.C. Law 1-20, § 7, 23 DCR 1810; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Mar. 3, 1979, D.C. Law 2-139, § 3205(II), (mm), 25 DCR 5740; Sept. 29, 1988, D.C. Law 7-169, § 2(c), 35 DCR 5749; Sept. 14, 2011, D.C. Law 19-21, § 9035, 58 DCR)

Cross references. — Effective date provisions, see § 1-636.02.

Regulated non-health related occupations and professions, see § 47-2853.04.

Prior Codifications. — 1981 Ed., § 2-606. 1973 Ed., § 2-1236.

Effect of amendments. — D.C. Law 19-21, in subsec. (c), added the second sentence.

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 1-50. — For

legislative history of D.C. Law 1-50, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 2-139. — For legislative history of D.C. Law 2-139, see Historical and Statutory Notes following § 3-604.

Legislative history of Law 7-169. — For legislative history of D.C. Law 7-169, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 3-101.01.

§ 3-607. Administration.

(a) All receipts of the Commission shall be deposited to the General Fund.

(b) Every person holding or conducting an event within the jurisdiction of the Commission shall file with the Commission, within 24 hours after the event is over, a report concerning fees, prices, revenues, and gross receipts from the event at the time and in the form prescribed by the Commission; however, this shall not preclude the Commission from demanding manifests or reports at an earlier time. Such person shall pay to the Commission, at the time of the filing of the report, a fee of 5 per centum of the gross receipts realized by such person as a result of holding or conducting the event except that the Commission may require the amount so collected be not less than that necessary for the payment of compensation to the personnel necessary to conduct such contest, match or exhibition. Each ticket of admission to any covered event shall bear clearly upon its face its price.

(c)(1) Every person presenting or showing any boxing or wrestling match, contest, or exhibition on closed circuit telecast or subscription television viewed within the District, whether or not originating within the District, shall, within 72 hours excluding Saturdays, Sundays, and legal holidays after the presentation or showing is over:

(A) File with the Commission a report stating the exact number of tickets sold for the presentation or showing and the gross receipts from the presentation or showing or, if no tickets are sold, the price in money or value paid or owed for the presentation or showing, and any other information the Commission may require; and

(B) Pay to the Commission a fee of 5% of the first \$100,000 of the gross

receipts from, or price paid or owed for, the presentation or showing and 2% of any gross receipts or price paid or owed in excess of \$100,000.

(2) Notwithstanding paragraph (1) of this subsection, the Commission may seek an advance payment for a presentation or showing when it deems an advance payment to be appropriate.

(d) The Commission may also charge such other nonlicense fees as are reasonable in amount for services it renders in carrying out its lawful functions.

(e) The Commission shall report quarterly to the Mayor and to the Council on its official acts and its efforts to promote the District of Columbia as a location for boxing, wrestling, and martial arts events. The Commission shall make recommendations, as it deems appropriate, to further the promotion of the District of Columbia as a location for boxing, wrestling, and martial arts events and to promote the effective regulation of professional and amateur boxing, wrestling, and martial arts events that are conducted or shown within the District of Columbia.

(f) The District of Columbia Auditor shall conduct at least every 3 fiscal years an audit of the Commission.

(g) The Mayor shall conduct quarterly audits of the Commission and furnish the Commission with such office space as it needs and with administrative aid as the Commission may request.

(Oct. 8, 1975, D.C. Law 1-20, § 8, 23 DCR 1815; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; June 14, 1980, D.C. Law 3-70, § 7(e), 27 DCR 1776; Aug. 13, 1986, D.C. Law 6-137, § 2(b), 33 DCR 3798; Sept. 29, 1988, D.C. Law 7-169, § 2(d), 35 DCR 5749; Aug. 1, 1996, D.C. Law 11-152, § 402, 43 DCR 2978; Dec. 7, 2004, D.C. Law 15-205, § 1192(b), 51 DCR 8441.)

Prior Codifications. — 1981 Ed., § 2-607. 1973 Ed., § 2-1237.

Effect of amendments. — D.C. Law 15-205, in subsec. (f), substituted “at least every 3 fiscal years an” for “a biennial”.

Emergency legislation. — For temporary amendment of section, see § 402 of the Fiscal Year 1996 Budget Support Emergency Act of 1996 (D.C. Act 11-264, April 26, 1996, 43 DCR 2412), and § 302 of the Fiscal Year 1996 Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-335, August 1, 1996, 43 DCR 4256).

For temporary (90 day) amendment of section, see § 1192(b) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1192(b) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 1-50. — For

legislative history of D.C. Law 1-50, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 3-70. — Law 3-70, the “District of Columbia Fund Accounting Act of 1980,” was introduced in Council and assigned Bill No. 3-197, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively. Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-137. — For legislative history of D.C. Law 6-137, see Historical and Statutory Notes following § 3-610.

Legislative history of Law 7-169. — For legislative history of D.C. Law 7-169, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 11-152. — Law 11-152, the “Fiscal Year 1996 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-655, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 28, 1996, it was assigned Act

No. 11-279 and transmitted to both Houses of Congress for its review. D. C. Law 11-152 became effective on August 1, 1996.

Legislative history of Law 15-205. — Law 15-205, the “Fiscal Year 2005 Budget Support Act of 2004”, was introduced in Council and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

§ 3-608. Violations of Commission rules; penalties.

(a) Any person who holds any boxing, wrestling, or martial arts contest, match or exhibition in the District of Columbia, or engages or participates in a boxing, wrestling, or martial arts contest, match, or exhibition without a valid license or permit effective at the time as provided in § 3-606(b), shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Such cases shall be prosecuted by the Corporation Counsel of the District of Columbia in the Superior Court of the District of Columbia.

(b) In the case of a person who is found by a preponderance of the evidence, under the contested case procedure in the District of Columbia Administrative Procedure Act, in a hearing before the Commission, to have violated lawful orders or rules of the Commission other than those penalized by subsection (a) of this section, the Commission may, upon findings explaining its actions:

(1) Revoke the licenses previously obtained by such person under the Commission rules;

(2) Consider the violation as grounds for future license denials against such person;

(3) Levy a fine in the amount of \$1,000 or less;

(4) Refer the case to Corporation Counsel for further prosecution; or

(5) Make such other orders as are reasonable and just, restricting or directing the violator’s actions in regard to boxing, wrestling or the martial arts in the District of Columbia.

(c) For failure to file the reports or pay the fees required in subsections (b) and (c) of § 3-607, a fine amounting to 10% of the fees due under that section, up to a maximum of 30% thereof, shall be assessed for each month or part thereof in which such required reports are not filed, or fees paid.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Oct. 8, 1975, D.C. Law 1-20, § 9, 23 DCR 1817; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Oct. 5, 1985, D.C. Law 6-42, § 423, 32 DCR 4450; Sept. 29, 1988, D.C. Law 7-169, § 2(e), 35 DCR 5749.)

Prior Codifications. — 1981 Ed., § 2-608. 1973 Ed., § 2-1238.

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 1-50. — For legislative history of D.C. Law 1-50, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regu-

latory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-169. — For legislative history of D.C. Law 7-169, see Historical and Statutory Notes following § 3-601.

References in text. — The "District of Columbia Administrative Procedure Act," referred to in subsection (b), is Chapter 5 of Title 2.

§ 3-609. Liability of Commission members.

(a) A member of the Commission shall not knowingly participate in any action of the Commission if such member, or the member's spouse or domestic partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, cousin, nephew or niece, has a financial or business interest in the action.

(b) A member shall not be liable in damages or court costs for any action of the Commission performed in good faith.

(Oct. 8, 1975, D.C. Law 1-20, § 10, 23 DCR 1818; Sept. 12, 2008, D.C. Law 17-231, § 9(b), 55 DCR 6758.)

Prior Codifications. — 1981 Ed., § 2-609. 1973 Ed., § 2-1239.

Effect of amendments. — D.C. Law 17-231, in subsec. (a), substituted "spouse or domestic partner" for "spouse".

Legislative history of Law 1-20. — For legislative history of D.C. Law 1-20, see Historical and Statutory Notes following § 3-601.

Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

§ 3-610. Protective equipment; rules.

(a) All contestants competing in any amateur boxing, wrestling, or martial arts match, contest, or exhibition in the District of Columbia shall be properly fitted with and shall at all times during the contest wear protective headgear approved by the Commission.

(b) All contestants competing in any amateur boxing, martial arts, or other sporting event traditionally utilizing padded gloves shall use thumbless or thumb attached padded gloves approved by the Commission.

(c) Every amateur or professional boxing, wrestling, or martial arts match, contest, or exhibition conducted in the District of Columbia shall utilize protective floor padding, and in the case of matches, contests, or exhibitions performed in a ring, padded corner posts and padded ropes approved by the Commission.

(d) The Commission is hereby directed and authorized to promulgate any reasonable rule it may deem necessary to effectuate the purposes of this section, including but not limited to the issuance of rules relating to the type and construction of equipment approved for use in an event covered by this section, the inspection of equipment required by this section prior to the holding of a match, contest, or exhibition covered by this section, and the denial, suspension, or revocation of any authority, license, or permit to conduct any event or events covered by this section for reason of noncompliance with the requirements of this section or rules promulgated by the Commission pursuant to the authority of this section.

(Oct. 8, 1975, D.C. Law 1-20, § 11, as added Aug. 13, 1986, D.C. Law 6-137, § 3, 33 DCR 3798 as amended Feb. 24, 1987, D.C. Law 6-192, § 3, 33 DCR 7836.)

Prior Codifications. — 1981 Ed., § 2-610.

Legislative history of Law 6-137. — Law 6-137, the “Boxing and Wrestling Commission Act Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-364, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 27, 1986, and June 10, 1986, respectively. Signed by the Mayor on June 13, 1986, it was assigned Act No. 6-175 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-192. — Law 6-192, the “Technical Amendments Act of 1986,” was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

CHAPTER 6A. COMMISSION ON POVERTY [EXPIRED].

Sec.

3-631 to 3-635. [Expired].

§ 3-631. Establishment of Commission on Poverty. [Expired].

Expired.

(Sept. 19, 2006, D.C. Law 16-151, § 2, 53 DCR 5368.)

Legislative history of Law 16-151. — Law 16-151, the “Commission on Poverty Establishment Act of 2006”, was introduced in Council and assigned Bill No. 16-387 which was referred to the Committee on Human Services. The Bill was adopted on first and second read-

ings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 26, 2006, it was assigned Act No. 16-392 and transmitted to both Houses of Congress for its review. D.C. Law 16-151 became effective on September 19, 2006.

§ 3-632. Members. [Expired].

Expired.

(Sept. 19, 2006, D.C. Law 16-151, § 3, 53 DCR 5368.)

Legislative history of Law 16-151. — For Law 16-151, see notes following § 16-631.

§ 3-633. Meetings. [Expired].

Expired.

(Sept. 19, 2006, D.C. Law 16-151, § 4, 53 DCR 5368.)

Legislative history of Law 16-151. — For Law 16-151, see notes following § 16-631.

§ 3-634. Duties. [Expired].

Expired.

(Sept. 19, 2006, D.C. Law 16-151, § 5, 53 DCR 5368.)

Legislative history of Law 16-151. — For Law 16-151, see notes following § 16-631.

§ 3-635. Sunset. [Expired].

Expired.

(Sept. 19, 2006, D.C. Law 16-151, § 6, 53 DCR 5368.)

Legislative history of Law 16-151. — For Law 16-151, see notes following § 16-631.

§§ 3-631 to 3-635, expired on December 31, 2008, pursuant to section 6 of D.C. Law 16-151.

Editor’s notes. — This chapter, consisting of

CHAPTER 6B. COMMISSION ON FASHION ARTS AND EVENTS.

Sec.

3-651. Establishment of the Commission on Fashion Arts and Events.

Sec.

3-652. Members; procedures; meetings.
3-653. Powers of the Commission.**§ 3-651. Establishment of the Commission on Fashion Arts and Events.**

There is established a Commission on Fashion Arts and Events (“Commission”) to advise the Mayor, the Council, and the public on the views and needs of the fashion and beauty communities in the District. The Commission shall implement the following programs and initiatives:

(1) Promoting the District as a location for holding fashion and beauty events, which will enhance the District’s economic development through tourism, cultural affairs, job opportunities, entertainment, business development, and national and international exposure;

(2) Providing community initiatives to benefit school-aged children living in the District, including encouraging the pursuit of career technical skills and higher education by implementing a school-based program in the fields of fashion design, merchandising, and beauty, and offering scholarships and internships to students pursuing careers in beauty and fashion industries to help students in transitioning from school to career;

(3) Making recommendations on fashion retail development projects throughout the city, including researching and making recommendations for the development, construction, and implementation of a Fashion Retail Corridor that will serve as a centralized shopping destination featuring local, national, and international fashion designers and boutiques in the District; and

(4) Creating partnerships between the fashion and business communities that will stimulate economic development through targeted fashion marketing, workforce development, and training and business development, and reposition the District as a fashion destination.

(Apr. 15, 2008, D.C. Law 17-148, § 2, 55 DCR 2219.)

Legislative history of Law 17-148. — Law 17-148, the “Commission on Fashion Arts and Events Establishment Act of 2008”, was introduced in Council and assigned Bill No. 17-173 which was referred to the Committee on Economic Development. The Bill was adopted on

first and second readings on January 8, 2008, and February 5, 2008, respectively. Signed by the Mayor on February 22, 2008, it was assigned Act No. 17-292 and transmitted to both Houses of Congress for its review. D.C. Law 17-148 became effective on April 15, 2008.

§ 3-652. Members; procedures; meetings.

(a) The Commission shall consist of 15 members, 8 of whom shall be nominated by the Mayor subject to the advice and consent of the Council, in accordance with § 1-523.01(e).

(b)(1) There shall be 7 ex-officio, nonvoting members, including the directors or their designees of the following agencies and organizations:

(A) Washington, D.C. Convention and Tourism Corporation;

- (B) Washington, DC Economic Partnership or the Office of Planning;
- (C) Department of Small and Local Business Development;
- (D) Office of the Deputy Mayor for Planning and Economic Development;
- (E) Department of Education;
- (F) Washington Convention and Sports Authority; and
- (G) Commission on the Arts and Humanities.

(2) Ex-officio members of the Commission shall have full privileges of Commission membership.

(c)(1) Appointed members of the Commission shall be residents of the District and shall include prominent business, civic, and fashion or beauty leaders with experience and understanding of the financial and organizational structure of fashion retail houses, branding and marketing, and youth education or vocational education, and who have extensive experience in the fashion industry.

(2) Appointed members of the Commission shall serve 4-year terms, with the exception that of the members first appointed, one member shall be appointed to a one-year term, 2 members shall be appointed to 2-year terms, 2 members shall be appointed to 3-year terms, and 3 members shall be appointed to 4-year terms.

(3) Members of the Commission may be reappointed.

(d) A vacancy on the Commission shall be filled in the same manner that the original appointment was made. A person appointed to fill a vacancy shall serve only for the unexpired term of the original appointment, but may be reappointed.

(e) A member of the Commission, whose term has expired, may continue to serve until a new member is appointed.

(f) The Mayor shall appoint the chairperson of the Commission from among the voting members.

(g) All members of the Commission shall serve without compensation.

(h) The Mayor may remove, after notice and hearing, any member of the Commission for neglect of duty, incompetence, misconduct, or malfeasance in office.

(i) The Commission shall develop its own rules of procedure.

(j) The Commission shall meet at least 4 times a year. The meetings shall be held in the District and shall be open to the public. A quorum to transact business shall consist of a majority, plus one, of the voting members.

(Apr. 15, 2008, D.C. Law 17-148, § 3, 55 DCR 2219; Mar. 3, 2010, D.C. Law 18-111, § 2082(i), 57 DCR 181.)

Effect of amendments. — D.C. Law 18-111, in subsec. (b)(1)(F), substituted “Washington Convention and Sports Authority” for “District of Columbia Sports and Entertainment Commission”.

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2082(i) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(i) of Fiscal Year Budget Sup-

port Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 17-148. — For Law 17-148, see notes following § 3-651.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

§ 3-653. Powers of the Commission.

(a) The Commission shall:

(1) Serve as an advocate for fashion retailers, designers, and beauty businesses in the District;

(2) Advise and make recommendations to the Mayor and the Council concerning needs of the people of the District for fashion-design activities and concerning the development and improvement of fashion and cultural affairs programs in the District;

(3) Stimulate and encourage study and review of the status of fashion arts projects and serve as the clearinghouse for activities aimed at realizing a fashion retail corridor that will serve as a centralized shopping destination featuring local, national, and international fashion designers and boutiques in the District;

(4) Prepare and recommend to the Mayor and the Council an annual plan for fashion arts projects and events in the District; and

(5) Work with District departments and agencies, private organizations, and the fashion-design community to develop and undertake programs which will encourage maximum participation in fashion art and cultural affairs activities and which will promote greater appreciation and enjoyment of the trade.

(b) The Commission may:

(1) Nominate special advisors to serve and provide technical and expert advice on matters relevant to the functions of the Commission; provided, that decision-making shall reside with the Commission;

(2) Form task forces, as required, composed of Commission members, special advisors, and others interested in serving;

(3) Apply for and receive grants to fund its program activities in accordance with procedures relating to grants management and recommend to the Mayor and the Council applications for federal grants-in-aid to projects or productions in fashion design; and

(4) Accept private gifts and donations to carry out the purposes of this chapter.

(Apr. 15, 2008, D.C. Law 17-148, § 4, 55 DCR 2219.)

Legislative history of Law 17-148. — For Law 17-148, see notes following § 3-651.

CHAPTER 7. COMMISSION FOR WOMEN.

Sec.

3-701. Statement of purpose.

3-702. Establishment of the Commission.

Sec.

3-703. Powers of the Commission.

3-704. Administration.

§ 3-701. Statement of purpose.

It is the purpose of this chapter to support programs directed toward evaluating and improving the status of women in the District of Columbia by establishing the Commission for Women.

(Sept. 22, 1978, D.C. Law 2-109, § 2, 25 DCR 1456.)

Prior Codifications. — 1981 Ed., § 2-801.
1973 Ed., § 2-2601.

Legislative history of Law 2-109. — Law 2-109, the “District of Columbia Commission for Women Act of 1978,” was introduced in Council and assigned Bill No. 2-236, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on May 30, 1978, and

June 13, 1978, respectively. Signed by the Mayor on July 13, 1978, it was assigned Act No. 2-230 and transmitted to both Houses of Congress for its review.

Editor’s notes. — Establishment and Appointments—Mayor’s Commission on Violence Against Women, see Mayor’s Order 2001-179, December 7, 2001 (48 DCR 11597).

§ 3-702. Establishment of the Commission.

(a) There is hereby established in the District of Columbia a Commission for Women (hereinafter referred to as the “Commission”). The Commission shall be composed of 21 members appointed by the Mayor, from among the residents of the District of Columbia with experience in the areas of public affairs and issues of particular interest and concern to women, representative by geographic area and reflective by race and age of the population of the District of Columbia. The Commission shall be the successor to the Commission on the Status of Women established by Organization Order No. 38, Commissioner’s Order No. 73-94a, effective April 24, 1973 (hereinafter referred to as the “Commission on the Status of Women”).

(b) Members of the Commission shall be appointed to serve terms of 3 years and shall serve until their successors are appointed. The present members of the Commission on the Status of Women shall be members of the Commission established by this chapter for the remainder of their current terms. A member of the Commission may be reappointed but may serve no more than 2 consecutive full terms. Tenure on the Commission on the Status of Women shall count toward the consecutive 2 full term limit on the Commission.

(c) Whenever a vacancy occurs on the Commission, the Mayor shall, within 90 working days of such vacancy, appoint a successor to fill the unexpired portion of the term.

(d) The Mayor shall designate, from among the members appointed to the Commission, the Chairperson, who shall serve in that capacity at the pleasure of the Mayor.

(e) All members of the Commission shall serve without compensation; except, that expenses incurred by the Commission as a whole or by its

individual members, when duly authorized, shall become an obligation against appropriated District of Columbia funds designated for that purpose.

(f) The Mayor may remove, after notice and hearing, any member of the Commission for neglect of duty, incompetence, misconduct or malfeasance in office.

(Sept. 22, 1978, D.C. Law 2-109, § 3, 25 DCR 1456; June 12, 1999, D.C. Law 12-285, § 4(k), 46 DCR 1355; Mar. 25, 2009, D.C. Law 17-353, § 313, 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-802. 1973 Ed., § 2-2602.

Effect of amendments. — D.C. Law 17-353, in subsec. (c), deleted “, with the advice and consent of the Council,” following “the Mayor”.

Emergency legislation. — For temporary amendment of section, see § 4(k) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

For temporary amendment of section, see § 4(k) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

For temporary (90-day) amendment of section, see § 4(k) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

Legislative history of Law 2-109. — For legislative history of D.C. Law 2-109, see Historical and Statutory Notes following § 3-701.

Legislative history of Law 12-285. — Law 12-285, the “Confirmation Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-261. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Vetoed by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999, and the Bill was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12-285 became effective on June 12, 1999.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-703. Powers of the Commission.

(a) The Commission shall conduct studies, review progress, develop, recommend and undertake action and initiate and conduct programs in areas including, but not limited to, the following:

(1) Elimination of discrimination based on sex and elimination of sex role stereotyping and bias;

(2) Public and private employment practices, including matters pertaining to hours, wages and working conditions;

(3) Education;

(4) Equality of rights and responsibilities of men and women under the law; and

(5) New and expanded services for women to facilitate their optimal functioning as homemakers, wage earners, and citizens, including mental and physical health care, and the improvement of facilities for child care and youth development.

(b) The Commission is authorized to apply for and receive grants to fund its program activities in accordance with procedures relating to grants management.

(c) The Commission may accept private gifts and donations to carry out the purposes of this chapter.

(d) The Commission shall stimulate and encourage study and review of the status of women and may act as a clearinghouse for activities in the District of Columbia.

(Sept. 22, 1978, D.C. Law 2-109, § 4, 25 DCR 1456.)

Prior Codifications. — 1981 Ed., § 2-803. legislative history of D.C. Law 2-109, see Historical and Statutory Notes following § 3-701.
1973 Ed., § 2-2603.

Legislative history of Law 2-109. — For

§ 3-704. Administration.

(a) The Commission shall appoint an Executive Director who shall be the chief administrative officer of the Commission. The Executive Director shall report regularly to the Commission on staff activities. The Executive Director shall receive annual rate of compensation fixed in accordance with Chapter 51 of Title 5 of the United States Code.

(b) Additional staff service for the Commission shall be supplied in accordance with positions and funding approved in the District of Columbia budget.

(c) The Commission is authorized to establish rules and procedures for the conduct of its business, including the election of officers other than the Chairperson, as it deems necessary.

(d) The Commission shall submit to the Mayor annual reports of its activities and the work carried on under its direction.

(Sept. 22, 1978, D.C. Law 2-109, § 5, 25 DCR 1456.)

Prior Codifications. — 1981 Ed., § 2-804. legislative history of D.C. Law 2-109, see Historical and Statutory Notes following § 3-701.
1973 Ed., § 2-2604.

Legislative history of Law 2-109. — For

CHAPTER 8. COUNCIL ON LAW ENFORCEMENT.

Sec.

3-801. Created; composition; duties; Chairman; meetings.

§ 3-801. Created; composition; duties; Chairman; meetings.

(a) The Council on Law Enforcement in the District of Columbia (referred to in this section as the "Council") is hereby created.

(b) The Council shall be composed of the following members:

- (1) The Mayor of the District of Columbia;
- (2) The Chief of Police;
- (3) The Chief of the United States Park Police;
- (4) The United States Attorney;
- (5) The Corporation Counsel;
- (6) A United States Magistrate for the District;
- (7) The Director of the Department of Corrections;
- (8) The Parole Executive of the Board of Parole of the District;
- (9) The United States Marshal for the District;
- (10) One person appointed by the Chief Judge of the District Court;
- (11) One person appointed by the Chief Judge of the Superior Court of the District of Columbia;
- (12) One person appointed by the Bar Association of the District of Columbia;
- (13) One person appointed by the Washington Bar Association; and
- (14) One person appointed by the Washington Criminal Justice Association.

(c) The Council shall make a continuing study and appraisal of crime and law enforcement in the District, and shall make a report to the Senate and the House of Representatives at the beginning of each regular session of Congress.

(d) The Council shall select a Chairman from among its members. The Council shall meet at regular intervals at least 4 times annually, at times to be fixed by the Chairman. A special meeting may be held at any time upon the call of the Chairman. The 1st meeting of the Council shall be called by the Mayor of the District of Columbia, who shall preside until a Chairman is selected.

(June 29, 1953, 67 Stat. 101, ch. 159, § 401; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a), 157(f).)

Prior Codifications. — 1981 Ed., § 2-1001. 1973 Ed., § 2-1901.

References in text. — The Act of October 17, 1968, Pub. L. 90-578, terminated the office of United States Commissioner and established in place thereof the office of United States Magistrate, referred to in subsection (b)(6) of this section. The Act became operative in the District on June 27, 1969, when 2 United States Magistrates assumed office pursuant to

appointment by order of the District Court, dated June 20, 1969.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CHAPTER 9. CRIMINAL JUSTICE SUPERVISORY BOARD.

Sec.

3-901. Definitions.

3-902. Findings; purpose.

3-903. Criminal Justice Supervisory Board and Office of Criminal Justice Plans and Analysis; membership; staff.

Sec.

3-904. Meetings; quorums; committees; by-laws.

3-905. Powers and duties.

3-906. Reports.

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§ 3-901. Definitions.

For the purposes of this chapter:

(1) "Board" means the Criminal Justice Supervisory Board established under § 3-903(b).

(2) "Crime Control Act" means the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3701 et seq.).

(3) "JPC" means the Judicial Planning Committee established pursuant to § 203(c) of the Crime Control Act of 1976 (42 U.S.C. § 3723).

(4) "Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. § 5601 et seq.).

(5) "Mayor's Office of Policy and Program Evaluation" means the office, under the direction and control of the Mayor, established pursuant to Mayor's Order 83-22, issued January 3, 1983 (30 DCR 328).

(6) "Youth" means a person who has not reached the age of 21 years.

(7) "Senior citizen" means any person who has reached the age of 60 years.

(Sept. 13, 1978, D.C. Law 2-107, § 2, 25 DCR 1391; July 23, 1992, D.C. Law 9-134, § 301(b)(1), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(1), 39 DCR 4895.)

Prior Codifications. — 1981 Ed., § 2-1101. 1973 Ed., § 2-2501.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 301(b)(1) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

Legislative history of Law 2-107. — Law 2-107, the "Criminal Justice Supervisory Board Act of 1978," was introduced in Council and assigned Bill No. 2-211, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first, and second readings on May 16, 1978, May 30, 1978, and June 13, 1978, respectively. There being no action by the Mayor, it was assigned Act No. 2-222 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-145. — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without

the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

References in text. — The "Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3701)," referred to in paragraph (2), was repealed by Title II, § 602 of the Act of October 12, 1984, 98 Stat. 2077, Pub. L. 98-473.

"Section 203(c) of the Crime Control Act of 1976 (42 U.S.C. § 3723)," referred to in paragraph (3), was superseded by Pub. L. 90-351, Title I, § 203, as added December 27, 1979, 93 Stat. 1174, Pub. L. 96-157, § 2.

Mayor's Orders. — Designation of a Single State Agency to Administer the Juvenile Justice and Delinquency and Establishment of the Juvenile Justice Advisory Group, see Mayor's Order 2009-13, February 9, 2009 (56 DCR 2033).

Editor's notes. — Application of § 301 of Law 9-145: Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

§ 3-902. Findings; purpose.

The Council of the District of Columbia finds and declares that:

(1) Crime and delinquency are complex social phenomena requiring the attention and efforts of the criminal justice system, local government, and private citizens alike;

(2) The establishment of appropriate goals, objectives, and standards for the reduction of crime and delinquency and for the administration of justice must be a priority concern;

(3) The functions of the criminal justice system must be coordinated more efficiently and effectively;

(4) The full and effective use of resources affecting local criminal justice systems requires the complete cooperation of local government agencies; and

(5) Training, research, evaluation, technical assistance, and public education activities must be encouraged and focused on the improvement of the criminal justice system and the generation of new methods for the prevention and reduction of crime and delinquency.

(Sept. 13, 1978, D.C. Law 2-107, § 3, 25 DCR 1391.)

Prior Codifications. — 1981 Ed., § 2-1102.
1973 Ed., § 2-2502.

legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 3-901.

Legislative history of Law 2-107. — For

§ 3-903. Criminal Justice Supervisory Board and Office of Criminal Justice Plans and Analysis; membership; staff.

(a) There is hereby established within the executive branch of the District of Columbia government a Criminal Justice Supervisory Board which shall serve as the law enforcement and criminal justice planning agency for the District of Columbia in accordance with the terms of the Crime Control Act. The Mayor's Office of Policy and Program Evaluation shall serve as the staff of the Board.

(b) The Criminal Justice Supervisory Board shall consist of 33 members, as follows:

(1) The Mayor;

(2) The Chairman of the Council of the District of Columbia;

(3) The Chief Judge of the District of Columbia Court of Appeals;

(4) The Chief Judge of the Superior Court of the District of Columbia;

(5) The Corporation Counsel of the District of Columbia;

(6) The Chairperson of the Committee on the Judiciary of the Council of the District of Columbia;

(7) The Executive Officer of the District of Columbia Courts;

(8) Three persons appointed by the Mayor from a list of no less than 9 nominees submitted by the Chief Judge of the District of Columbia Court of Appeals;

(9) The United States Attorney for the District of Columbia (if he desires to serve);

(10) The City Administrator;

(11) A judge of the Superior Court of the District of Columbia selected by the Chief Judge of the District of Columbia Court of Appeals;

(12) The Director of the District of Columbia Public Defender Service;

(13) The Director of the District of Columbia Pre-Trial Services Agency;

(14) The Chairperson of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act;

(15) Two members of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act; provided, that the 2 members, other than the Chairperson of such state advisory group, shall not be employees of the District of Columbia government, and shall be chosen by the Mayor from among the membership of the state advisory group;

(16) Eight persons appointed by the Mayor, 1 of whom shall be a youth and 2 of whom shall be senior citizens;

(17) Four persons appointed by the Chairman of the Council of the District of Columbia with the consent of the Council; provided, that such persons shall not be employed by the District of Columbia government, 1 of whom shall be a youth and 1 of whom shall be a senior citizen; and

(18) Three persons appointed by the Chairperson of the Committee on the Judiciary of the Council of the District of Columbia with the consent of the Committee; provided, that such persons shall not be employed by the District of Columbia government, 1 of whom shall be a youth and 1 of whom shall be a senior citizen.

(c) An alternate of a member of the Board may be designated by each member; provided, that such designation shall be in writing. In the event that a nongovernment member, appointed pursuant to paragraphs (15) through (18) of subsection (b) of this section, is absent from 3 consecutive meetings of the Board or any of its committees or subcommittees, the Chairperson of the Board shall request that the Mayor of the District of Columbia (hereinafter referred to as the "Mayor"), the Chairman of the Council, the Chairperson of the Committee on the Judiciary of the Council or the state advisory group established pursuant to § 223 of the Juvenile Justice Act, as the case may be, replace such appointed member.

(d) Members serving pursuant to paragraphs (15) through (18) of subsection (b) of this section shall serve for 2-year terms and may be reappointed for no more than 1 additional consecutive term. Members serving pursuant to paragraph (8) of subsection (b) of this section shall serve at the pleasure of the Chief Judge of the District of Columbia Court of Appeals. The terms of all other members shall be concurrent with their service in the office from which they derive their membership.

(e) Should any member cease to be an officer of the unit or agency of government which he is appointed to represent, his membership on the Criminal Justice Supervisory Board shall terminate immediately and a new member shall be appointed in the same manner as his predecessor to fill the unexpired term. Vacancies occurring in memberships created by paragraphs (8), (11), and (15) through (18) of subsection (b) of this section, except those by the expiration of a term, shall be filled for the balance of the unexpired term in the same manner as the original appointment within 30 days of the vacancy.

(f) The Mayor shall appoint a Chairperson of the Criminal Justice Supervisory Board. A Vice-Chairperson shall be selected by the Board from among its members.

(g) A member of the Board is not entitled to a salary for duties performed as a member of the Board. Each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official Board duties.

(h) Repealed.

(Sept. 13, 1978, D.C. Law 2-107, § 4, 25 DCR 1391; Sept. 28, 1979, D.C. Law 3-24, § 2, 3, 26 DCR 405; July 23, 1992, D.C. Law 9-134, § 301(b)(2), (3), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(2), (3), 39 DCR 4895.)

Cross references. — Disclosure of financial interests, requirements, see § 1-1106.02.

Prior Codifications. — 1981 Ed., § 2-1103. 1973 Ed., § 2-2503.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 301(b)(2), (3) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

Emergency legislation. — For temporary amendment of section, see § 301(b)(2) and (3) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

Legislative history of Law 2-107. — For legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 3-901.

Legislative history of Law 3-24. — Law 3-24, the “Criminal Justice Supervisory Board Amendments Act of 1979,” was introduced in Council and assigned Bill No. 3-155, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 19, 1979, and July 3, 1979, respectively. Signed by the Mayor on July 12, 1979, it was assigned Act No. 3-68 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-145. — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 3-901.

References in text. — “Section 223 of the Juvenile Justice Act” referred to in subsections (b)(14), (b)(15) and (c), is codified as 42 U.S.C. § 5633.

Transfer of Functions. — For temporary transfer of functions of the Office of Criminal Justice Plans and Analysis, established pursuant to subsection (a) of this section, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available

relating to the functions of the Office of Criminal Justice Plans and Analysis to the Mayor’s Office of Policy and Programs Evaluation, see § 301(a) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

Section 301(a) of D.C. Law 9-134 provided that the functions of the Office of Criminal Justice Plans and Analysis, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available relating to the functions of the Office of Criminal Justice Plans and Analysis are transferred to the Mayor’s Office of Policy and Program Evaluation.

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided that the act shall expire on the 225th day of its having taken effect.

Section 301(a) of D.C. Law 9-145 provided that the functions of the Office of Criminal Justice Plans and Analysis, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available relating to the functions of the Office of Criminal Justice Plans and Analysis are transferred to the Mayor’s Office of Policy and Program Evaluation.

Mayor’s Orders. — Designation of an Agency to Administer the Juvenile Justice and Delinquency Prevention Act, see Mayor’s Order 2000-149, October

Editor’s notes. — Application of § 301 of Law 9-145: Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

Funding authorized: Section 824 of the Act of December 27, 1979, 93 Stat. 1167, Pub. L. 96-157, authorized funding for the District’s state planning agency according to a special formula.

§ 3-904. Meetings; quorums; committees; bylaws.

(a) The Criminal Justice Supervisory Board shall meet at least once every

90 days and at such other times designated by the Chairperson or a majority of the Board.

(b) A simple majority of the membership shall constitute a quorum for the Criminal Justice Supervisory Board and for its committees or subcommittees.

(c) In developing and administering an annual comprehensive criminal justice plan for the District of Columbia, the Chairperson of the Board, with the advice and consent of a majority of the Board shall establish committees or subcommittees comprised of members of the Board and such other persons as the Chairperson of the Board deems advisable and feasible. The Chairperson of the Board, with the advice and consent of a majority of the Board, shall also determine the chairperson for each committee. The committee structure of the Board shall include, but not be limited to:

(1) A committee on the courts comprised of the JPC and designed to carry out the purposes of § 203 of the Crime Control Act;

(2) A committee on juvenile justice comprised of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act and designed to develop the juvenile justice component of the annual comprehensive criminal justice plan in accordance with the Juvenile Justice Act; and

(3) An appeals committee designed to consider appeals from any action of the Board denying all or part of any funds requested in any subgrant application to conduct a project for which funds are available.

(d) Except for a committee on the courts and a committee on juvenile justice, each committee of the Board shall contain: (1) At least 1 member from or appointed by the executive branch of the District of Columbia government; (2) at least 1 member from or appointed by the Council of the District of Columbia; (3) at least 1 member from the District of Columbia courts; and (4) a sufficient number of members who are not employed by the District of Columbia government to comprise at least one third of the total membership of the committee or subcommittee. In the event that an executive committee is established by the Board, such executive committee shall include in its membership the same proportion of members representing the judiciary and members representing the juvenile justice advisory group as the total number of each such class of members bears to the total membership of the Board.

(e) Subject to the provisions of paragraphs (1), (2) and (3) of subsection (c) of this section, the Board shall ensure that, prior to the adoption by the Board of an annual comprehensive criminal justice plan, it shall have received and considered recommendations from at least one of its committees or subcommittees with respect to what ought to be the contents of the plan concerning: (1) The administration of justice; (2) the prevention of crime; (3) detection of crime and apprehension of offenders; (4) prosecution and defense; and (5) sentencing and correctional treatment of offenders. In addition, the Board shall ensure that, prior to its making grant awards in accordance with an approved annual comprehensive criminal justice plan, the Board shall have received and considered recommendations from at least one of its committees or subcommittees with respect to all potential subgrant award recipients who qualify in accordance with the Board's rules and procedures governing subgrant awards.

(f) The Board shall promulgate rules of procedure governing its operations which comply with Chapter 5 of Title 2, and with §§ 1-309.01 through 1-309.13.

(Sept. 13, 1978, D.C. Law 2-107, § 5, 25 DCR 1391; Sept. 28, 1979, D.C. Law 3-24, § 4, 26 DCR 405.)

Prior Codifications. — 1981 Ed., § 2-1104. 1973 Ed., § 2-2504.

Legislative history of Law 2-107. — For legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 3-901.

Legislative history of Law 3-24. — For legislative history of D.C. Law 3-24, see Historical and Statutory Notes following § 3-903.

References in text. — "Section 203 of the

Crime Control Act," referred to in subsection (c)(1), formerly codified in 42 U.S.C. § 3723, was superseded by Pub. L. 90-351, Title I, § 203, as added December 27, 1979, 93 Stat. 1174, Pub. L. 96-157, § 2.

"Section 223 of the Juvenile Justice Act," referred to in subsection (c)(2), is codified as 42 U.S.C. § 5633.

§ 3-905. Powers and duties.

The Board shall:

(1) Advise and assist the Mayor, the District of Columbia courts and the Council of the District of Columbia in developing policies, plans, programs, and budgets for improving the coordination, administration and effectiveness of the criminal justice system in the District of Columbia;

(2) Approve all components of the annual comprehensive criminal justice plan prepared pursuant to the Crime Control Act and submit such plan to the Council of the District of Columbia for its advisory review of the goals, priorities, and policies contained therein prior to the ultimate submission of such plan to the Law Enforcement Assistance Administration, United States Department of Justice;

(3) Include in each annual comprehensive criminal justice plan a statement of the fiscal impact each component of such plan would likely have, if any, on the fiscal budget of the District of Columbia for the next 5 years;

(4) Assure the participation of citizens, community organizations, and juvenile justice advocates at all levels of the planning process;

(5) Recommend goals, priorities, and standards for the reduction of crime and the improvement of the administration of justice in the District of Columbia;

(6) Recommend criminal justice legislation to the Mayor, the Council of the District of Columbia, and the Congress, where appropriate;

(7) Ensure that the annual judicial plan developed by the JPC is implemented to the extent that it is in conformity with the comprehensive plan for the improvement of law enforcement and criminal justice in accordance with § 304(b) of the Crime Control Act;

(8) Encourage local and regional comprehensive criminal justice planning efforts;

(9) Monitor and evaluate programs and projects, funded in whole or in part by the District of Columbia government, aimed at reducing crime and delinquency and improving the administration of justice;

(10) Cooperate with and render technical assistance to agencies and units

of the District of Columbia government, and public or private agencies relating to the criminal justice system;

(11) Have the authority to collect from any District of Columbia governmental entity information, data, reports, statistics or such other material which is necessary to carry out the functions of the Office of Criminal Justice Plans and Analysis consistent with the District of Columbia Home Rule Act; and

(12) Perform such other duties as may be necessary to carry out the purposes of this chapter.

(Sept. 13, 1978, D.C. Law 2-107, § 6, 25 DCR 1391.)

Prior Codifications. — 1981 Ed., § 2-1105. 1973 Ed., § 2-2505.

Legislative history of Law 2-107. — For legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 3-901.

References in text. — “Section 304(b) of the Crime Control Act,” referred to in paragraph (7), formerly codified at 42 U.S.C. § 3734, was

superseded by Pub. L. 90-351, Title I, § 304, as Pub. L. 98-473, added December 27, 1979, 93 Stat. 1178, Pub. L. 96-157, § 2, which was repealed by Title II, § 605(c) of the Act of October 12, 1984, 98 Stat. 2080, Pub. L. 98-473.

The “District of Columbia Home Rule Act,” referred to in paragraph (11), is the Act of December 24, 1973, 87 Stat. 774, Pub. L.

§ 3-906. Reports.

(a) Within 90 days of the close of each fiscal year, the Criminal Justice Supervisory Board shall submit an annual report to the Mayor and to the Council of the District of Columbia concerning its work during the preceding fiscal year.

(b) The Mayor’s Office of Policy and Program Evaluation through the Board may submit other studies, evaluations, crime data analyses, and reports to the Mayor or the Council of the District of Columbia as deemed appropriate or as requested by the Mayor or the Council.

(Sept. 13, 1978, D.C. Law 2-107, § 7, 25 DCR 1391; July 23, 1992, D.C. Law 9-134, § 301(b)(4), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(4), 39 DCR 4895.)

Prior Codifications. — 1981 Ed., § 2-1106. 1973 Ed., § 2-2506.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 301(b)(4) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

Emergency legislation. — For temporary amendment of section, see § 301(b)(4) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

Legislative history of Law 2-107. — For legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 2-1101.

Legislative history of Law 9-145. — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 3-901.

Editor’s notes. — Application of § 301 of Law 9-145: Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

§ 3-907. Authorization of funds.

There are hereby authorized to be appropriated such funds as may be necessary for the administration of this chapter.

(Sept. 13, 1978, D.C. Law 2-107, § 8, 25 DCR 1391; July 23, 1992, D.C. Law

9-134, § 301(b)(5), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(5), 39 DCR 4895.)

Prior Codifications. — 1981 Ed., § 2-1107. 1973 Ed., § 2-2507.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 301(b)(5) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

Emergency legislation. — For temporary amendment of section, see § 301(b)(5) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

Legislative history of Law 2-107. — For legislative history of D.C. Law 2-107, see Historical and Statutory Notes following § 3-901.

Legislative history of Law 9-145. — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 3-901.

Editor's notes. — Application of § 301 of Law 9-145: Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

CHAPTER 10. ENVIRONMENTAL PLANNING COMMISSION.

Sec.

3-1001. Environmental Planning Commission.

3-1002. Duties of Department and Commission; scope of program.

3-1003. Environmental Planning Fund.

Sec.

3-1004. Annual report by Commission.

3-1005. Reimbursement of Commission members' expenses; office space, supplies, and personnel.

§ 3-1001. Environmental Planning Commission.

(a) There is established an Environmental Planning Commission ("Commission") which shall propose a comprehensive plan for preventing and reducing litter and solid waste, and shall advise the Department of Public Works ("Department") on the implementation of the comprehensive litter and solid waste reduction plan.

(b) The Commission shall be comprised of 21 members, with 1 member appointed by each member of the Council of the District of Columbia ("Council"), 1 member appointed by the President of the Board of Education of the District of Columbia, 4 members appointed by the Mayor of the District of Columbia ("Mayor"), and 3 members appointed by the chairperson of the Committee on Public Works of the Council of the District of Columbia.

(c) The 4 members appointed by the Mayor shall be selected according to the following scheme:

(1) One member to represent the Department of Public Works;

(2) One member to represent the Office of Business and Economic Development; and

(3) Two members to represent businesses within the District of Columbia.

(d) One of the members appointed by the chairperson of the Council committee with legislative oversight concerning litter and solid waste shall chair the Commission.

(e)(1) The Council-appointed members shall serve for 3-year terms and other members shall serve for 2-year terms.

(2) Vacancies shall be filled in the same manner as the original appointment to the office that became vacant.

(3) The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(f) A majority of the members of the Commission shall be a quorum, which shall exist before the Commission may conduct business.

(g) The Commission shall meet at least once every 2 months. The chairperson of the Commission may convene the members for a meeting after reasonably attempting to inform each member of the time, the place, and the purpose of the meeting.

(Feb. 21, 1986, D.C. Law 6-84, § 2, 32 DCR 7287; Oct. 7, 1987, D.C. Law 7-31, § 5, 34 DCR 3789; Sept. 24, 1994, D.C. Law 10-178, § 2(a), 41 DCR 5205.)

Cross references. — Waste management policy, consultation by mayor, see § 8-1004.

Prior Codifications. — 1981 Ed., § 2-3201.

Legislative history of Law 6-84. — Law 6-84, the "Litter and Solid Waste Act of 1985," was introduced in Council and assigned Bill

No. 6-290, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 5, 1985, and November 19, 1985, respectively. Signed by the Mayor on November 27, 1985, it was assigned Act No. 6-109 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-31. — Law 7-31, the “Boards and Commissions Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-139, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned

Act No. 7-26 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-178. — Law 10-178, the “District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-10, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 7, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 26, 1994, it was assigned Act No. 10-303 and transmitted to both Houses of Congress for its review. D.C. Law 10-178 became effective on September 24, 1994.

§ 3-1002. Duties of Department and Commission; scope of program.

(a) The Department shall work along with businesses, with charitable organizations, and with the Commission to implement a comprehensive litter and solid waste reduction and recycling program to improve the appearance of the local environment.

(b) The Commission, with full cooperation from the Department, shall monitor the progress of the comprehensive litter and solid waste reduction and recycling program.

(c) The litter and solid waste reduction and recycling program shall include, but not be limited to, the following activities:

(1) A summer youth project which employs teenagers to clean, during the summer, areas selected by the Department;

(2) A neighborhood blitz which would be a special clean-up program that would take place at least every 3 months in the dirtiest neighborhoods and alleys;

(3) An education program for teaching youth of all ages about the collection of litter and the recycling of solid waste;

(4) A planting project for growing flowers, trees, and grass throughout the District of Columbia, particularly in barren areas;

(5) A program for cleaning vacant lots and for cleaning lots where vacant buildings owned by the District of Columbia are located;

(6) The establishment of recycling centers;

(7) Recommendations for administrative and legislative action to beautify the District of Columbia; and

(8) The development of a comprehensive educational and promotional campaign on recycling for generators of commercial and residential solid waste.

(Feb. 21, 1986, D.C. Law 6-84, § 3, 32 DCR 7287; Mar. 16, 1989, D.C. Law 7-226, § 19(b), (c), 36 DCR 595; Mar. 25, 2009, D.C. Law 17-353, § 187, 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-3202.

Effect of amendments. — D.C. Law 17-353

validated a previously made technical correction in subsecs. (c)(6) and (7).

Legislative history of Law 6-84. — For legislative history of D.C. Law 6-84, see Historical and Statutory Notes following § 3-1001.

Legislative history of Law 7-226. — Law 7-226, the “D.C. Solid Waste Management and Multi-Material Recycling Act of 1988,” was introduced in Council and assigned Bill No. 7-378, which was referred to the Committee on

Public Works. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 10, 1989, it was assigned Act No. 7-301 and transmitted to both Houses of Congress for its review.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-1003. Environmental Planning Fund.

(a) An Environmental Planning Fund (“Fund”) shall be established as a separate bank account by the Commission to receive all funds from whatever source derived. All funds generated by this Commission shall be deposited in the Fund, in coordination with the D.C. Comptroller.

(b) The Commission is authorized to solicit, accept, and expend funds, gifts, and donations to carry out the purposes of this chapter.

(c) Any funds of the Commission, from whatever source derived, shall be for the sole use of the Commission and shall be deposited as soon as practicable in the Fund.

(d) The Commission shall submit to the Mayor and to the Council a bimonthly statement of its receipts and disbursements from the Fund.

(e) Any money remaining in the Fund or other assets belonging to the Commission upon the termination of the Commission shall be paid over into the General Fund of the District as general purpose revenues after the obligations of the Commission have been satisfied.

(Feb. 21, 1986, D.C. Law 6-84, § 4, 32 DCR 7287; Feb. 24, 1987, D.C. Law 6-192, § 9, 33 DCR 7836; Sept. 24, 1994, D.C. Law 10-178, § 2(b), 41 DCR 5205.)

Prior Codifications. — 1981 Ed., § 2-3203.

Legislative history of Law 6-84. — For legislative history of D.C. Law 6-84, see Historical and Statutory Notes following § 3-1001.

Legislative history of Law 6-192. — Law 6-192, the “Technical Amendments Act of 1986,” was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and

second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-178. — For legislative history of D.C. Law 10-178, see Historical and Statutory Notes following § 3-1001.

§ 3-1004. Annual report by Commission.

The Commission shall report each year to the Council and to the Mayor about progress in implementing the litter and solid waste reduction program and about the status of the Fund.

(Feb. 21, 1986, D.C. Law 6-84, § 5, 32 DCR 7287.)

Prior Codifications. — 1981 Ed., § 2-3204.

Legislative history of Law 6-84. — For

legislative history of D.C. Law 6-84, see Historical and Statutory Notes following § 3-1001.

§ 3-1005. Reimbursement of Commission members' expenses; office space, supplies, and personnel.

(a) Commission members may be reimbursed from the Fund for expenses reasonably related to the Commission's official duties in compliance with government guidelines.

(b) The Mayor shall also make available to the Commission office space, supplies, and necessary support personnel to accomplish its mission.

(Feb. 21, 1986, D.C. Law 6-84, § 6, 32 DCR 7287.)

Prior Codifications. — 1981 Ed., § 2-3205. legislative history of D.C. Law 6-84, see Historical and Statutory Notes following § 3-1001.
Legislative history of Law 6-84. — For

CHAPTER 11. FIRE PROTECTION STUDY COMMISSION.

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3-1101. Definitions.

3-1102. Established; composition; officers; term of office; quorum; residency requirements; reimbursement of expenses; meetings; funding; duration.

3-1103. Duties.

3-1104. Restriction on job training program combined with sprinkler installation program.

Sec.

3-1105. Operational space and personnel; agency cooperation.

3-1106. Donations.

3-1107. Interdepartmental Advisory Committee.

3-1108. Notice of Commission and Committee meetings; minutes.

§ 3-1101. Definitions.

For the purpose of this chapter, the term:

(1) "Commission" means the District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission established by § 3-1102.

(2) "Committee" means the Interdepartmental Advisory Committee established by § 3-1107.

(3) "Council" means Council of the District of Columbia.

(4) "Mayor" means the Mayor of the District of Columbia.

(Mar. 16, 1985, D.C. Law 5-183, § 2, 32 DCR 841.)

Prior Codifications. — 1981 Ed., § 2-3101.

Legislative history of Law 5-183. — Law 5-183, the "District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission Act of 1984," was introduced in Council and assigned Bill No. 5-392, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the

Mayor on January 11, 1985, it was assigned Act No. 5-248 and transmitted to both Houses of Congress for its review.

Editor's notes. — The reference in paragraph (2) to "§ 3-1107" appeared in D.C. Law 5-183 as "§ 2-3106 1981 Ed. ." The reference should have been to 2-3107 1981 Ed., given the sense of the text. Section 2-3107 was recodified as § 3-1107 in the 2001 Edition.

§ 3-1102. Established; composition; officers; term of office; quorum; residency requirements; reimbursement of expenses; meetings; funding; duration.

(a) There is established a District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission to advise the Council by investigating and reporting on the feasibility of low-cost residential, commercial, and institutional sprinklers as a means of protecting the public from uncontrolled fires in residential, commercial, and institutional structures and by recommending to the Council comprehensive legislation to establish a residential, commercial, and institutional fire sprinkler program appropriate for the District of Columbia.

(b)(1) The Commission shall consist of 15 members.

(2) The members of the Commission shall be residents of the District of Columbia and shall be appointed in the following manner:

(A) One member shall be appointed by each member of the Council;

(B) One member shall be appointed by the Mayor; and

(C) The chairperson of the Council's Committee on the Judiciary shall serve as an additional member and as chairperson of the Commission.

(3) The members of the Commission may elect from among its members other officers considered necessary.

(c) The term of the members shall be 1 year from the 1st meeting of the Commission.

(d) A majority of the members of the Commission shall constitute a quorum. A quorum of the members shall be necessary for the Commission to conduct its business.

(e) The appointment of a member shall terminate if the member becomes a resident of a jurisdiction other than the District of Columbia.

(f) Vacancies in the Commission shall be filled in the same manner as the original appointment.

(g) Members of the Commission shall serve without compensation but shall be reimbursed for all reasonable expenses associated with their service.

(h) The Commission shall meet at least once a month and shall determine the time and place of its meetings. The Council may convene meetings of the Commission at any time. Meetings of the Commission are open to the public consistent with § 1-207.42.

(i) The Commission shall annually receive funds according to the appropriations process. These funds may be applied to the costs associated with community hearings, the development of studies and other forms of community interface, and for the hiring of staff.

(j) The Commission shall cease to exist 30 days after submitting the comprehensive report referred to in § 3-1103(p).

(Mar. 16, 1985, D.C. Law 5-183, § 3, 32 DCR 841.)

Prior Codifications. — 1981 Ed., § 2-3102.
Legislative history of Law 5-183. — For

legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

§ 3-1103. Duties.

(a) The Commission shall investigate the issues that affect the safety of the residents of the District of Columbia and recommend legislative schemes for eliminating the hazards of fires.

(b) The Commission shall:

(1) Identify the population groups that are at higher than average risk of death or injury due to residential fires;

(2) Identify the neighborhoods where the residents suffer higher than average risk of death or injury due to fires;

(3) Identify the categories of residential buildings in which the incidence of fire occurs at a rate higher than in other residential buildings;

(4) Identify the causes of these fires; and

(5) Identify categories of buildings that should be required to install sprinkler systems.

(c) The Commission shall examine the appropriateness of the use-group

classifications set forth in the Building Code approved pursuant to the Construction Codes Approval and Amendment Act of 1986.

(d) The Commission shall study the feasibility of installing the following configurations of sprinklers:

(1) Hallway and stairwell sprinklers with the extension of a single head into each adjacent room;

(2) Sprinklers throughout the building; or

(3) Other configurations as may appear feasible to the Commission.

(e) Based on the District of Columbia's fire experience since 1978, the Commission shall make a finding of the percentage of deaths, injuries, and serious fires that would likely be prevented by each configuration of sprinklers.

(f) The Commission shall make a determination of the long-term monetary savings to the District of Columbia government which is likely to result by installing the sprinkler systems that the Commission recommends.

(g) The Commission shall ascertain the advantages and disadvantages of sprinkler systems fashioned from copper, polyvinyl chloride, and polybutylene.

(h) The Commission shall determine if the water system in high-risk residential neighborhoods of the District of Columbia is adequate to supply a residential sprinkler system directly as well as identify the percentage of homes in high-risk neighborhoods with an adequate system to supply water directly to a residential sprinkler system.

(i) The Commission shall:

(1) Identify low-cost alternatives to supplying a residential sprinkler system directly;

(2) Identify funding mechanisms for large-scale installation of residential and institutional sprinkler systems;

(3) Identify specific funding mechanisms for high-risk, low income neighborhoods and cost-containment methods for installation of the residential sprinklers; and

(4) Identify economic disincentives to the installation of residential sprinklers.

(j) The Commission shall identify what changes would have to be made in the local statutes and regulations to allow residential, commercial, and institutional applications of the systems that the Commission recommends.

(k) The Commission shall identify existing programs for youth employment, adult employment, and job training with which a program of large-scale sprinkler installation might be combined to provide multiple benefits to the residents of the District of Columbia.

(l) The Commission shall determine whether the appropriate District of Columbia government agencies have the power and capacity to carry out necessary inspections and to enforce sprinkler requirements that the Commission may recommend.

(m) The Commission shall investigate other matters appropriate for completing the comprehensive report on the feasibility of residential, commercial, and institutional sprinklers in the District of Columbia.

(n) The Commission shall identify and use the services of all concerned District of Columbia residents, businesses, government agencies, and private agencies with expertise and interest in fire protection.

(o) The Commission shall conduct community hearings to receive information related to its mission.

(p) The Commission shall submit to the Council, 1 year after the 1st meeting of the Commission, a comprehensive report setting forth its findings and recommendations.

(Mar. 16, 1985, D.C. Law 5-183, § 4, 32 DCR 841; Mar. 21, 1987, D.C. Law 6-216, § 13(c), 34 DCR 1072; May 10, 1989, D.C. Law 7-231, § 12, 36 DCR 492.)

Prior Codifications. — 1981 Ed., § 2-3103.

Legislative history of Law 5-183. — For legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

Legislative history of Law 6-216. — Law 6-216, the "Construction Codes Approval and Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-500, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on February 2, 1987, it was assigned Act No. 6-279 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-231. — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

References in text. — The "Construction Codes Approval and Amendment Act of 1986," referred to in subsection (c), is D.C. Law 6-216.

§ 3-1104. Restriction on job training program combined with sprinkler installation program.

Any job training programs chosen to be combined with a sprinkler installation program shall perform their job training activities within the District of Columbia.

(Mar. 16, 1985, D.C. Law 5-183, § 5, 32 DCR 841.)

Prior Codifications. — 1981 Ed., § 2-3104.

Legislative history of Law 5-183. — For

legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

§ 3-1105. Operational space and personnel; agency cooperation.

The Mayor shall provide sufficient space for the Commission to operate and may detail personnel to assist the Commission in its work. The Mayor shall also direct all agencies contacted by the Commission to give their full cooperation.

(Mar. 16, 1985, D.C. Law 5-183, § 6, 32 DCR 841.)

Prior Codifications. — 1981 Ed., § 2-3105.

Legislative history of Law 5-183. — For

legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

§ 3-1106. Donations.

The Commission may receive donations and grants, either in money or in kind, intended to promote the work of the Commission and shall hold all

donations and grants in trust for the designated purpose. Any deposit of funds shall be made in coordination with the D.C. Comptroller.

(Mar. 16, 1985, D.C. Law 5-183, § 7, 32 DCR 841; Feb. 24, 1987, D.C. Law 6-192, § 14, 33 DCR 7836.)

Prior Codifications. — 1981 Ed., § 2-3106.

Legislative history of Law 5-183. — For legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

Legislative history of Law 6-192. — Law 6-192, the “Technical Amendments Act of 1986,” was introduced in Council and assigned Bill

No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 3-1107. Interdepartmental Advisory Committee.

(a)(1) There is established an Interdepartmental Advisory Committee to assist the Commission in its work.

(2) The Committee shall consist of representatives of the following agencies:

- (A) The Fire Department of the District of Columbia;
- (B) The Corporation Counsel of the District of Columbia;
- (C) The Department of Housing and Community Development;
- (D) The Department of Employment Services;
- (E) The District of Columbia Department of Finance and Revenue; and
- (F) The Department of Public Works.

(b) The chairperson of the Commission shall be an ex officio member and chairperson of the Committee. The Committee, or particular segments of the Committee, shall convene when the chairperson considers necessary and appropriate, but not less than once quarterly. The meeting place of the Committee shall change periodically so that meetings are held at least once in each ward of the city during the existence of the Committee. Meetings of the Committee shall be open to the public.

(c) Each agency member of the Committee shall cooperate with the Commission to the fullest extent, shall make available to the Commission the personnel and the resources that the Commission reasonably requires, and shall provide without charge data analysis as the Commission reasonably requests within 30 days of the Commission’s request.

(Mar. 16, 1985, D.C. Law 5-183, § 8, 32 DCR 841.)

Prior Codifications. — 1981 Ed., § 2-3107.

Legislative history of Law 5-183. — For legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

References in text. — Pursuant to the Office of the Chief Financial Officer’s “Notice of Public Interest” published in the April 18, 1997, issue of the District of Columbia Register (44

DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner’s Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

§ 3-1108. Notice of Commission and Committee meetings; minutes.

At least 15 days notice to the public of meetings of the Commission and the Committee shall be provided by advertising in at least 3 local newspapers, through public service announcements, and publication in the District of Columbia Register. Copies of the minutes of meetings of the Commission and the Committee shall be provided on a quarterly basis to each member of the Council and the Mayor.

(Mar. 16, 1985, D.C. Law 5-183, § 9, 32 DCR 841.)

Cross references. — Health maintenance organizations, “provider” defined, see § 31-3401.

Health-care and community residence facilities, personnel criminal background checks, see § 44-552.

Human tissue banks, transfer of blood components within District, authority of licensed blood banks, see § 7-1541.08.

Injuries caused by firearms or other dangerous weapons, reports by physicians and institutions, requirements, see § 7-2601.

Medical records, “health professional” defined, see § 44-801.

Neglected children, persons required to make reports, procedure, see § 4-1321.02.

Non-health related occupations, licensure, certification, and registration criteria, see § 47-2853.02.

Presidential inaugural ceremonies, authorization of appropriations, see § 2-810.

Substance abuse, prevention program, financial assistance, see § 44-1205.

Substance abuse, treatment and prevention, “qualified health professional” defined, see § 44-1201.

Workers’ compensation, “physician” defined, see § 32-1501.

Prior Codifications. — 1981 Ed., § 2-3108.

Legislative history of Law 5-183. — For legislative history of D.C. Law 5-183, see Historical and Statutory Notes following § 3-1101.

CHAPTER 12. HEALTH OCCUPATIONS BOARDS.

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DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

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*Subchapter I. Definitions; Scope.***§ 3-1201.01. General definitions.**

For the purposes of this chapter, the term:

(1) "Board" means [the] Board of Audiology and Speech-Language Pathology, Board of Chiropractic, the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Marriage and Family Therapy, the Board of Medicine, the Board of Nursing, the Board of Nursing Home Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy, the Board of Podiatry, the Board of Professional Counseling, the Board of Psychology, the Board of Respiratory Care, or the Board of Social Work, established by this chapter, as the context requires.

(1A) "Boards of Allied Health" means the Board of Audiology and Speech-Language Pathology, the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Massage Therapy, the Board of Nursing Home Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Physical Therapy, the Board of Podiatry, and the Board of Respiratory Care.

(1B) "Boards of Behavioral Health" means the Board of Marriage and Family Therapy, the Board of Professional Counseling, the Board of Psychology, and the Board of Social Work.

(2) "Collaboration" means the process in which health professionals jointly contribute to the health care of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform pursuant to this chapter.

(3) "Corporation Counsel" means the Corporation Counsel of the District of Columbia.

(4) "Council" means the Council of the District of Columbia.

(5) "Day" means calendar day unless otherwise specified in this chapter.

(6) "District" means the District of Columbia.

(6A) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(6B) "Domestic partnership" shall have the same meaning as provided in § 32-701(4).

(7) "Health occupation" means a practice that is regulated under the authority of this chapter.

(8) "Health professional" means a person licensed under this chapter or permitted by this chapter to practice a health occupation in the District.

(9) "Impaired health professional" means a health professional who is unable to perform his or her professional responsibilities reliably due to a mental or physical disorder, excessive use of alcohol, or habitual use of any narcotic or controlled substance or any other drug in excess of therapeutic amounts or without valid medical indication.

(10) "Mayor" means the Mayor of the District of Columbia.

(11) "Person" means an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.

(12) Repealed.

(12A) "Revocation" means termination of the right to practice a health profession and loss of licensure, registration, or certification for 5 years or more.

(13) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(14) "Superior Court" means the Superior Court of the District of Columbia.

(15) "Suspension" means termination of the right to practice a health profession for a specified period of time of less than 5 years or until such time that the specified conditions in an order are satisfied.

(Mar. 25, 1986, D.C. Law 6-99, § 101, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(a), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(a), 41 DCR 7707; Mar. 21, 1995, D.C. Law 10-231, § 2(a), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(a), 42 DCR 457; Mar. 10, 2004, D.C. Law 15-88, § 2(b), 50 DCR 10999; Mar. 6, 2007, D.C. Law 16-219, § 2(b), 53 DCR 10211; June 25, 2008, D.C. Law 17-177, § 6(a), 55 DCR 3696; Sept. 12, 2008, D.C. Law 17-231, § 10(a), 55 DCR 6758; July 7, 2009, D.C. Law 18-15, § 2(b), 56 DCR 3616; July 18, 2009, D.C. Law 18-26, § 2(b), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3301.1.

Effect of amendments. — D.C. Law 15-88, in par. (1), inserted "the Board of Marriage and Family Therapy," after "the Board of Dietetics and Nutrition,".

D.C. Law 16-219, in par. (1), inserted "Board of Audiology and Speech-Language Pathology,".

D.C. Law 17-177 added par. (6A).

D.C. Law 17-231 added par. (6A).

D.C. Law 18-15 redesignated former par. (6A) as par. (6B); and added par. (6A).

D.C. Law 18-26 added pars. (1A), (1B), (12A), and (15).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-203. — Law 10-203, the "Respiratory Care Practice Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-85, which was referred

to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on October 4, 1994, and November 1, 1994, respectively. Signed by the Mayor on November 22, 1994, it was assigned Act No. 10-341 and transmitted to both Houses of Congress for its review. D.C. Law 10-203 became effective on March 14, 1995.

Legislative history of Law 10-231. — Law 10-231, the “Chiropractic Licensing Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-142, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-373 and transmitted to both Houses of Congress for its review. D.C. Law 10-231 became effective on March 21, 1995.

Legislative history of Law 10-247. — Law 10-247, the “Health Occupations Revision Act of 1985 Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-598, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. On December 28, 1994, Bill 10-598 was vetoed by the Mayor. The Council overrode the Mayor’s veto on January 17, 1995. Bill No. 10-598 was re-enacted and assigned Act No. 10-394 and transmitted to both Houses of Congress for its review. D.C. Law 10-247 became effective on March 23, 1995.

Legislative history of Law 15-88. — Law 15-88, the “Marriage and Family Therapy Amendment Act of 2003,” was introduced in Council and assigned Bill No. 15-20, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on October 7, 2003, and November 4, 2003, respectively. Signed by the Mayor on November 25, 2003, it was assigned Act No. 15-256 and transmitted to both Houses of Congress for its review. D.C. Law 15-88 became effective on March 10, 2004.

Legislative history of Law 16-219. — Law 16-219, the “Audiology and Speech-Language Pathology Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-435, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19, 2006, it was assigned Act No. 16-548 and transmitted to both Houses of Congress for its review. D.C. Law 16-219 became effective on March 6, 2007.

Legislative history of Law 17-177. — Law 17-177, the “Prohibition of Discrimination on the Basis of Gender Identity and Expression Amendment Act of 2008,” was introduced in Council and assigned Bill No. 17-330, which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on February 5, 2008, and March 4, 2008, respectively. Signed by the Mayor on March 19, 2008, it was assigned Act No. 17-329 and transmitted to both Houses of Congress for its review. D.C. Law 17-177 became effective on June 25, 2008.

Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

Legislative history of Law 18-15. — Law 18-15, the “Practice of Dentistry Amendment Act of 2009,” was introduced in Council and assigned Bill No. 18-36 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-59 and transmitted to both Houses of Congress for its review. D.C. Law 18-15 became effective on July 7, 2009.

Legislative history of Law 18-26. — Law 18-26, the “Health Occupations Revision General Amendment Act of 2009,” was introduced in Council and assigned Bill No. 18-90, which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on May 12, 2009, it was assigned Act No. 18-74 and transmitted to both Houses of Congress for its review. D.C. Law 18-26 became effective on July 18, 2009.

Delegation of Authority. — Delegation of authority pursuant to Law 6-99, see Mayor’s Order 86-110, July 18, 1986.

Delegation of authority pursuant to the “District of Columbia Health Occupations Revision Act of 1985”, see Mayor’s Order 98-140, August 20, 1998 (45 DCR 6593).

Editor’s notes. — Health Regulation Reform Task Force: Title III of D.C. Law 12-86 provided in detail for the establishment of a Health Regulation Reform Task Force, to consist of 11 members appointed by the Mayor. The Health Task Force was required to submit a written review of the boards created by the District of Columbia Health Occupations Revision Act of 1985, Chapter 33 of Title 2 Chapter 12 of Title 3 including recommendations for the restructuring or consolidation of the boards and of the licensing procedures. The Task Force was to cease to exist 60 days after submission of the report.

CASE NOTES

In general.

As statutory creation, District of Columbia Board of Medicine cannot exceed powers given

it by statute. D.C. Code 1981, § 2-3301.1 et seq. Greenlee v. Board of Medicine, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

§ 3-1201.02. Definitions of health occupations.

For the purposes of this chapter, the term:

(1) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal stimulation, at a certain point or points on or near the surface of the human body to relieve pain, normalize physiological functions, and treat ailments or conditions of the body. A licensed acupuncturist does not need to enter into a collaboration agreement with a licensed physician or osteopath to practice acupuncture.

(1A) "Practice of addiction counseling" means providing services, with or without compensation, based on theory and methods of counseling, psychotherapy, and addictionology to persons who are experiencing cognitive, affective, or behavioral psycho-social dysfunction as a direct or indirect result of addiction, chemical dependency, abuse of chemical substances, or related disorders. The practice of addiction counseling includes:

(A) Addiction prevention;

(B) Crisis intervention;

(C) Diagnosis;

(D) Referral;

(E) Direct treatment;

(F) Follow-up, which is rendered to individuals, families, groups, organizations, schools, and communities adversely affected by addictions or related disorders; and

(G) The education and training of persons in the field of addiction counseling.

(2) "Practice of advanced practice registered nursing" means the performance of advanced-level nursing actions, with or without compensation, by a licensed registered nurse with advanced education, knowledge, skills, and scope of practice who has been certified to perform such actions by a national certifying body acceptable to the Board of Nursing. The practice of advanced practice registered nursing includes:

(A) Advanced assessment;

(B) Medical diagnosis;

(C) Prescribing;

(D) Selecting, administering, and dispensing therapeutic measures;

(E) Treating alterations of the health status; and

(F) Carrying out other functions identified in subchapter VI of this chapter and in accordance with procedures required by this chapter.

(2A)(A) "Practice by anesthesiologist assistants" means assisting an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist.

(B) For the purposes of this paragraph, the term "anesthesiologist" means a physician who has completed a residency in anesthesiology approved

by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

(2B)(A) "Practice of audiology" means the planning, directing, supervising, and conducting of habilitative or rehabilitative counseling programs for individuals or groups of individuals who have, or are suspected of having, disorders of hearing; any service in audiology, including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction, and research; participating in hearing conservation, hearing aid and assistive listening device evaluation, selection, preparation, dispensing, and orientation; fabricating ear molds; providing auditory training and speech reading; or administering tests of vestibular function and tests for tinnitus. The practice of audiology includes speech and language screening limited to a pass-or-fail determination for the purpose of identification of individuals with disorders of communication. The practice of audiology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a school audiologist employed by, and working in accordance with, the regulations of the District of Columbia Board of Education.

(3)(A) "Practice of Chiropractic" means the detecting and correcting of subluxations that cause vertebral, neuromuscular, or skeletal disorder, by adjustment of the spine or manipulation of bodily articulations for the restoration and maintenance of health; the use of x-rays, physical examination, and examination by noninvasive instrumentation for the detection of subluxations; and the referral of a patient for diagnostic x-rays, tests, and clinical laboratory procedures in order to determine a regimen of chiropractic care or to form a basis or referral of patients to other licensed health care professionals. "Practice of Chiropractic" does not include the use of drugs, surgery, or injections, but may include, upon certification by the Board, counseling about hygienic and other noninvasive ancillary procedures authorized by rules issued pursuant to this chapter.

(B) Nothing in this paragraph shall be construed as preventing or restricting the services or activities of any individual engaged in the lawful practice of cosmetology or massage, provided that the individual does not represent by title or description of services that he or she is a chiropractor.

(4)(A) "Practice of dental hygiene" means the performance of any of the following activities in accordance with the provisions of subparagraph (B) of this paragraph:

(i) A preliminary dental examination; a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration; or the polishing of a tooth or a restoration;

(ii) The charting of cavities during preliminary examination, prophylaxis, or polishing;

(iii) The application of a medicinal agent to a tooth for a prophylactic purpose;

(iv) The taking of a dental X-ray;

(v) The instruction of individuals or groups of individuals in oral health care; and

(vi) Any other functions included in the curricula of approved educational programs in dental hygiene.

(B) A dental hygienist may perform the activities listed in subparagraph (A) of this paragraph only under the general supervision of a licensed dentist, in his or her office or any public school or institution rendering dental services. The Mayor may issue rules identifying specific functions authorized by subparagraph (A)(vi) of this paragraph and may require higher levels of supervision for the performance of these functions by a dental hygienist. The license of a dentist who permits a dental hygienist, operating under his or her supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental hygienist violating this paragraph may also be suspended or revoked, in accordance with the provisions of this chapter.

(C) For the purpose of subparagraph (B) of this paragraph, the term "general supervision" means the performance by a dental hygienist of procedures permitted by subparagraph (A) of this paragraph based on instructions given by a licensed dentist, but not requiring the physical presence of the dentist during the performance of these procedures.

(5) "Practice of dentistry" means:

(A) The diagnosis, treatment, operation, or prescription for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity, including the removal of stains, accretions, or deposits from the human teeth;

(B) The extraction of a human tooth or teeth;

(C) The performance of any phase of any operation relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with an artificial substance, material, or device;

(D) The correction of the malposition or malformation of the human teeth;

(E) The administration of an appropriate anesthetic agent, by a dentist properly trained in the administration of the anesthetic agent, in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity;

(F) The taking or making of an impression of the human teeth, gums, or jaws;

(G) The making, building, construction, furnishing, processing, reproduction, repair, adjustment, supply or placement in the human mouth of any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth, or to advertise, offer, sell, or deliver any such substitute or the services rendered in the construction, reproduction, repair, adjustment, or supply thereof to any person other than a licensed dentist;

(H) The use of an X-ray machine or device for dental treatment or diagnostic purposes, or the giving of interpretations or readings of dental X-rays;

(I) The performance of any of the clinical practices included in the curricula of accredited dental schools or colleges or qualifying residency or graduate programs; or

(J) To be a manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed; provided, that this provision shall not apply to:

(i) Federal or District of Columbia government agencies providing dental services within affiliated facilities or engaged in providing public health measures to prevent disease;

(ii) Schools of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association and providing dental services solely in an educational setting;

(iii) Federally Qualified Health Centers, as designated by the United States Department of Health and Human Services, providing dental services;

(iv) Nonprofit community-based entities or organizations that use a majority of public funds to provide dental and dental-hygiene services for indigent persons;

(v) Hospitals licensed by the Department of Health;

(vi) Partnerships, professional corporations, or professional limited liability companies solely consisting of and operated by dentists licensed under this chapter for the purpose of providing dental services;

(vii) Spouses and domestic partners of deceased licensed dentists for a period of one year following the death of the licensee;

(viii) If all of the ownership interest of the deceased, licensed dentist in a dental office or clinic is held by an administrator, executor, personal representative, guardian, conservator, or receiver of the estate ("appointee"), the appointee may retain the ownership interest for a period of one year following the creation of the ownership interest; and

(ix) An individual or entity acting as the manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed who does not have a license to practice dentistry and is not excepted pursuant to sub-subparagraphs (i) through (viii) of this subparagraph may continue to act as the manager, proprietor, operator, or conductor of the business or place where dental or dental-hygiene services are performed for a period of one year following July 7, 2009.

(6)(A) "Practice of dietetics and nutrition" means the application of scientific principles and food management techniques to assess the dietary or nutritional needs of individuals and groups, make recommendations for short-term and long-term dietary or nutritional practices which foster good health, provide diet or nutrition counseling, and develop and manage nutritionally sound dietary plans and nutrition care systems consistent with the available resources of the patient or client.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of dietetic technicians and

dietetic assistants working under the supervision of a licensed dietitian or nutritionist, other health professionals licensed pursuant to this chapter, or other persons who in the course of their responsibilities offer dietary or nutrition information or deal with nutritional policies or practices on an occasional basis incidental to their primary duties, provided that they do not represent by title or description of services that they are dietitians or nutritionists.

(6A)(A) "Practice of marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. The practice of marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, for the purpose of treating the diagnosed nervous and mental disorders.

(B) Nothing in subparagraph (A) of this paragraph shall be construed as preventing or restricting the practices, services, or activities of:

(i) A person practicing marriage and family therapy within the scope of the person's employment or duties at:

(I) A recognized academic institution, or a federal, state, county, or local governmental institution or agency; or

(II) A nonprofit organization that is determined by the Board to meet community needs;

(ii) A person who is a marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or under another supervisory arrangement recognized and approved by the Board; provided, that the person is designated by a title clearly indicating the training status, such as "marriage and family therapy intern," "marriage therapy intern," or "family therapy intern"; or

(iii) A person who has been issued a temporary permit by the Board to engage in the activities for which licensure is required.

(C) Nothing in this chapter shall be construed as preventing or restricting members of the clergy, or other health professionals licensed under this chapter, including clinical social workers, psychiatric nurses, psychiatrists, psychologists, physicians, or professional counselors, from practicing marriage and family therapy consistent with the accepted standards of their professions; provided, that no such persons shall represent by title or description of services that they are marriage and family therapists.

(6B)(A) "Practice of massage therapy" means the:

(i) Performance of therapeutic maneuvers in which the practitioner applies massage techniques, including use of the hand or limb to apply touch and pressure to the human body through tapping, stroking, kneading, compression, friction, stretching, vibrating, holding, positioning, or causing movement of an individual's body to positively affect the health and well-being of the individual;

(ii) Use of adjunctive therapies, including the application of heat, cold, water, and mild abrasives, but excluding galvanic stimulation, ultra sound, doppler vascularizers, diathermy, transcutaneous electrical nerve stimulation, or traction; and

(iii) Education and training of persons in massage therapy techniques.

(B) A licensed massage therapist shall not diagnose disease or injury; prescribe medicines, drugs, or other treatments of disease; or perform adjustments of the articulations of the osseous structure of the body or spine.

(C) A licensed massage therapist may perform cross-gender massage.

(D) Repealed.

(7)(A) "Practice of medicine" means suggesting, recommending, prescribing, or administering, with or without compensation, any form of treatment, operation, drug, medicine, manipulation, electricity, or any physical, mechanical, or healing treatment by other means, for the prevention, diagnosis, correction, or treatment of a physical or mental disease, ailment, injury, condition, or defect of any person, including:

(i) The management of pregnancy and parturition;

(ii) The interpretation of tests, including primary diagnosis of pathology specimens, images, or photographs;

(iii) Offering or performing a surgical operation upon another person;

(iv) Offering or performing any type of invasive procedure of the body, whether through a body opening or a cutting of the skin, or otherwise affecting the layer of skin below the stratum corneum, for surgical, therapeutic, or cosmetic purposes, excluding procedures known as body tattooing or body piercing;

(v) Rendering a written or otherwise documented medical opinion relating to the diagnosis and treatment of a person within the District, or the actual rendering of treatment to a person within the District, by a physician located outside the District as a result of transmission of the person's medical data by electronic or other means from within the District to the physician or to the physician's agent;

(vi) Maintaining an office or other place for the purpose of examining persons afflicted with disease, injury, or defect of body or mind;

(vii) Advertising or representing in any manner that one is authorized to practice medicine; or

(viii) Using the designation "Doctor of Medicine," "Doctor of Osteopathy," "physician," "surgeon," "physician and surgeon," "M.D.," or "D.O.," or a similar designation, or any combination thereof, in the conduct of an occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license.

(B) Nothing in this paragraph shall be construed as preventing or restricting other health professionals from offering or undertaking any type of invasive procedure of the body, whether through a body opening or a cutting of the skin, or otherwise affecting the layer of skin below the stratum corneum, for surgical, therapeutic, or cosmetic purposes, if the procedure:

(i) Has been authorized by a licensed physician; or

(ii) Is performed by an advanced practice registered nurse, an anesthesiologist assistant, a dentist, a physician assistant, a podiatrist, a practical nurse, a registered nurse, or a surgical assistant who has received the necessary training and experience to perform the procedure in a safe and effective manner.

(C) Nothing in this paragraph shall be construed as preventing or restricting advanced practice registered nurses from performing their duties as advanced practice registered nurses.

(7A)(A) "Practice of naturopathic medicine" means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes to prevent, diagnose, and treat human conditions and injuries.

(B) The term "practice of naturopathic medicine" does not include the practices of physical therapy, physical rehabilitation, acupuncture, or chiropractic.

(7B) "Practice by nursing assistive personnel" means the performance by unlicensed personnel of assigned patient care tasks that do not require professional skill or judgment within a health care, residential, or community support setting; provided, that the patient care tasks are performed under the general supervision of a licensed health care professional. Nursing assistive personnel includes:

(A) Nursing assistants;

(B) Health aides;

(C) Home-health aides;

(D) Nurse aides;

(E) Trained medication employees;

(F) Dialysis technicians; and

(G) Any other profession as determined by the Mayor through rulemaking.

(8)(A) "Practice of nursing home administration" means the administration, management, direction, or the general administrative responsibility for an institution or part of an institution that is licensed as a nursing home.

(B) Within the meaning of this paragraph, the term "nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient or resident.

(9)(A) "Practice of occupational therapy" means:

(i) The therapeutic use of everyday life activities with individuals or groups, with or without compensation, for the purpose of participation in roles and situations in homes, schools, workplaces, communities, and other settings to promote health and welfare for those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction;

(ii) Addressing the physical, cognitive, psycho-social, sensory, or other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life;

(iii) The education and training of persons in the direct care of patients through the use of occupational therapy; and

(iv) The education and training of persons in the field of occupational therapy.

(B) An individual licensed as an occupational therapy assistant pursuant to this chapter may assist in the practice of occupational therapy under the general supervision of a licensed occupational therapist.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of an occupational therapy aide who works under the immediate supervision of an licensed occupational therapist or licensed occupational therapy assistant and whose activities do not require advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(10)(A) "Practice of optometry" means the application of the scientific principles of optometry in the examination of the human eye, its adnexa, appendages, or visual system, with or without the use of diagnostic pharmaceutical agents to prevent, diagnose, or treat defects or abnormal conditions; the prescription or use of lenses, prisms, orthoptics, vision training or therapy, low vision rehabilitation, therapeutic pharmaceutical agents, or prosthetic devices; or the application of any method, other than invasive surgery, necessary to prevent, diagnose, or treat any defects or abnormal conditions of the human eye, its adnexa, appendages, or visual system.

(B) The Mayor shall issue rules identifying which, and under what circumstances, diagnostic and therapeutic pharmaceutical agents may be used by optometrists pursuant to this paragraph.

(C) An individual licensed to practice optometry pursuant to this chapter may use diagnostic and therapeutic agents only if certified to do so by the Board of Optometry in accordance with the provisions of § 3-1202.07.

(D) Nothing in this paragraph shall be construed to authorize an individual licensed to practice optometry to use surgical lasers; to perform any surgery including cataract surgery or cryosurgery; or to perform radial keratotomy. For the purpose of this subparagraph, the term "surgery" shall not include punctal plugs, superficial foreign body removal, epilation, or dialation and irrigation.

(E) Nothing in this paragraph shall be construed to authorize an individual licensed to practice optometry to administer or prescribe any oral systemic drug except for antibiotics, appropriate analgesics, antihistamines, non-steroidal anti-inflammatories, or medication for the emergency treatment of angle closure glaucoma; to administer or prescribe any injectable systemic drug except for an injection to counter an anaphylactic reaction; or to administer or prescribe any drug for any purpose other than that authorized by this paragraph. For the purposes of this subparagraph, the term "antibiotics" shall not include antiviral or antifungal agents.

(F) Prior to initiating treatment for glaucoma, an optometrist shall consult with the patient's physician or other appropriate physician. The treatment of angle closure glaucoma by an optometrist shall be limited to the initiation of immediate emergency treatment.

(G) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a licensed physician or as prohibiting an optician from providing eyeglasses or lenses on the prescription of a licensed physician or optometrist or a dealer from selling eyeglasses or lenses; provided, that the optician or dealer does not represent by title or description of services that he or she is an optometrist.

(10A)(A) "Practice of pharmaceutical detailing" means the practice by a representative of a pharmaceutical manufacturer or labeler of communicating in person with a licensed health professional, or an employee or representative of a licensed health professional, located in the District of Columbia, for the purposes of selling, providing information about, or in any way promoting a pharmaceutical product.

(B) For the purposes of this paragraph, the term:

(i) "Labeler" means an entity or person that receives pharmaceutical products from a manufacturer or wholesaler and repackages them for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 207.20.

(ii) "Manufacturer" means a maker of pharmaceutical products and includes a subsidiary or affiliate of a manufacturer.

(iii) "Pharmaceutical product" means a drug or biologic for human use regulated by the federal Food and Drug Administration.

(11)(A) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices; drug and device selection; responsibility for advising and providing information, where regulated or otherwise necessary, concerning drugs and devices and their therapeutic values, content, hazards, and uses in the treatment and prevention of disease; responsibility for conducting drug-regimen reviews; responsibility for the proper and safe storage and distribution of drugs and devices; the administration of immunizations and vaccinations upon receipt of a written physician protocol and a valid prescription or standing order of a physician when certified by the Board of Pharmacy to do so; conducting health screenings, including obtaining finger-stick blood samples; the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy; and the maintenance of proper records therefor.

(B) Within the meaning of this paragraph, the term:

(i) "Pharmacy" means any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed.

(ii) "Prescription" means any order for a drug, medicinal chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, or on an approved electronic form, dated and signed by an authorized health professional, or given orally to a pharmacist by an authorized health professional or the person's authorized agent and immediately reduced to writing by the pharmacist or pharmacy intern, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

(12)(A) “Practice of physical therapy” means the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuromuscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition.

(B) “Practice by physical therapy assistants” means the performance of selected physical therapy procedures and related tasks under the direct supervision of a physical therapist by a person who has graduated from a physical therapy assistant program accredited by an agency recognized for that purpose by the Secretary of the Department of Education or the Council of Postsecondary Accreditation.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of a physical therapy aide who works only under the direct supervision of a physical therapist, and whose activities do not require advanced training in, or complex application of, therapeutic procedures or other standard procedures involved in the practice of physical therapy.

(13) “Practice by physician assistants” means the performance, in collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment, prescription, preventive health care, and other functions which are authorized by the Board of Medicine pursuant to § 3-1202.03.

(13A) “Practice by physicians-in-training” means the practice of medicine by a medical resident or fellow, or other similar designation, enrolled in a nationally accredited training program or a training program in the District that is approved by the District of Columbia Board of Medicine.

(14) “Practice of podiatry” means to diagnose or surgically, medically, or mechanically treat, with or without compensation, the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf. The term “practice of podiatry” does not include the administration of an anesthetic, other than a local anesthetic.

(14A)(A) “Practice of polysomnography” means the process of analyzing, monitoring, and recording physiologic data during sleep and wakefulness, with or without compensation, to assist in the assessment and diagnosis of sleep-wake disorders and other disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or that disrupt normal sleep-wake cycles and activities.

(B) For the purposes of this paragraph, the term:

(i) “Polysomnographic technician” means a person who is registered with the Board of Medicine and is authorized to perform certain polysomnography procedures as determined by the Board while generally supervised by either a physician who is licensed in the District of Columbia or

a polysomnographic technologist who is licensed by the District of Columbia who is on-site or available through voice communication.

(ii) "Polysomnographic technologist" means a person who is licensed with the Board of Medicine and is authorized to practice polysomnography; provided, that a polysomnographic technologist shall practice under the general supervision of a physician who is licensed in the District of Columbia.

(iii) "Polysomnographic trainee" means a person who is registered with the Board of Medicine and authorized to perform basic polysomnography procedures, as determined by the Board, while directly supervised by a physician who is licensed in the District of Columbia, a polysomnographic technologist who is licensed in the District of Columbia, or a polysomnographic technician who is registered in the District of Columbia and on the premises and immediately available for consultation.

(C) Nothing in this paragraph shall be construed as limiting a qualified licensed respiratory care practitioner or licensed physician in his or her scope of practice, including care in connection with the provision of polysomnography services.

(15) "Practice of practical nursing" means the performance of specific nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care based on standards established or recognized by the Board of Nursing; provided, that performance of the services is under the supervision of a registered nurse, advanced practice registered nurse, licensed physician, or other health care provider, as authorized by the Board of Nursing. The practice of practical nursing includes:

(A) Collecting data on the health status of patients;

(B) Evaluating a patient's status and situation at hand;

(C) Participating in the performance of ongoing comprehensive nursing assessment process;

(D) Supporting ongoing data collection;

(E) Planning nursing care episodes for patients with stable conditions;

(F) Participating in the development and modification of the comprehensive plan of care for all types of patients;

(G) Implementing appropriate aspects of the strategy of care within a patient-centered health care plan;

(H) Participating in nursing care management through delegating to assistive personnel and assigning to other licensed practical nurses nursing interventions that may be performed by others and do not conflict with this chapter;

(I) Maintaining safe and effective nursing care rendered directly or indirectly;

(J) Promoting a safe and therapeutic environment;

(K) Participating in health teaching and counseling to promote, attain, and maintain optimum health levels of patients;

(L) Serving as an advocate for patients by communicating and collaborating with other health care service personnel; and

(M) Participating in the evaluation of patient responses to interventions.

(15A) "Practice of professional counseling" means engaging in counseling or psychotherapy activities, including cognitive behavioral therapy or other modality, with or without compensation, to facilitate human development and to identify and remediate mental, emotional, or behavioral conditions and associated difficulties that interfere with mental health and wellness. The practice of professional counseling includes:

(A) The processes of conducting interviews, tests, and other forms of assessment for the purpose of diagnosing individuals, families, and groups, as outlined in the Diagnostic and Statistical Manual of Disorders or other appropriate classification schemes, and determining treatment goals and objectives; and

(B) Assisting individuals, families, and groups through a professional relationship to achieve long-term effective mental, emotional, physical, spiritual, social, educational, or career development and adjustment.

(16)(A)(i) "Practice of psychology" means the development and application, with or without compensation, of scientific concepts, theories, methods, techniques, procedures, and principles of psychology to aid in the understanding, measuring, explaining, predicting, preventing, fostering, and treating of abilities, disabilities, attributes, or behaviors that are:

(I) Principally cognitive, such as aptitudes, perceptions, attitudes, or intelligence;

(II) Affective, such as happiness, anger, or depression; or

(III) Behavioral, such as physical abuse.

(ii) The term "practice of psychology" includes:

(I) Coaching, consulting, counseling, and various types of therapy, such as behavior therapy, group therapy, hypnotherapy, psychotherapy, and marriage, couples, and family therapy;

(II) Intellectual, personality, behavioral, educational, neuropsychological, and psycho-physiological testing; and

(III) Professional activities, such as research, teaching, training, interviewing, assessment, evaluation, pharmacology, and biofeedback.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of:

(i) An individual bearing the title of psychologist in the employ of an academic institution, research organization, or laboratory, if the psychology-based activities or services offered are within the scope of employment, are consistent with his or her professional training and experience, and provided within the confines of employment; [or]

(ii) A school psychologist employed by and working in accordance with the regulations of the District of Columbia Board of Education.

(17) "Practice of registered nursing" means the performance of the full scope of nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care to all patients in all settings based on standards established or recognized by the Board of Nursing. The practice of registered nursing includes:

(A) Providing comprehensive nursing assessment of the health status of patients, individuals, families, and groups;

(B) Addressing anticipated changes in a patient's condition as well as emerging changes in a patient's health status;

(C) Recognizing alterations of previous physiologic patient conditions;

(D) Synthesizing biological, psychological, spiritual, and social nursing diagnoses;

(E) Planning nursing interventions and evaluating the need for different interventions and the need for communication and consultation with other health care team members;

(F) Collaborating with health care team members to develop an integrated client-centered health care plan as well as providing direct and indirect nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient's requirements;

(G) Developing a strategy of nursing care for integration within the patient-centered health plan that establishes nursing diagnoses, sets goals to meet identified health care needs, determines nursing interventions, and implements nursing care through the execution of independent nursing strategies and regimens requested, ordered, or prescribed by authorized health care providers;

(H) Performing services such as:

(i) Counseling;

(ii) Educating for safety, comfort, and personal hygiene;

(iii) Preventing disease and injury; and

(iv) Promoting the health of individuals, families, and communities;

(I) Delegating and assigning interventions to implement a plan of care;

(J) Administering nursing services within a health care facility, including the delegation and supervision of direct nursing functions and the evaluation of the performance of these functions;

(K) Delegating and assigning nursing interventions in the implementation of a plan of care along with evaluation of the delegated interventions;

(L) Providing for the maintenance of safe and effective nursing care rendered directly or indirectly as well as educating and training persons in the direct nursing care of patients;

(M) Engaging in nursing research to improve methods of practice;

(N) Managing, supervising, and evaluating the practice of nursing;

(O) Teaching the theory and practice of nursing; and

(P) Participating in the development of policies, procedures, and systems to support the patient.

(17A) "Practice of respiratory care" means the performance in collaboration with a licensed physician, of actions responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, including, but not limited to:

(A) Therapeutic and diagnostic use of medical gases, humidity, and aerosols, including the maintenance of associated apparatus;

(B) Administration of medications to the cardiorespiratory system; provision of ventilatory assistance, ventilatory control, including high frequency ventilation; postural drainage, chest physiotherapy, breathing exercises, and other respiratory rehabilitation procedures;

(C) Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways and the transcription and implementation of a physician's written or verbal orders pertaining to the practice of respiratory care;

(D) Testing techniques utilized in respiratory care to assist in diagnosis, monitoring, treatment, and research; and

(E) Measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing pH and blood gas analysis, hemodynamic and other related physiological monitoring of the cardiopulmonary system.

(18)(A) "Practice of social work" means rendering or offering to render professional services to individuals, families, or groups of individuals that involve the diagnosis and treatment of psychosocial problems according to social work theory and methods. Depending upon the level at which an individual social worker is licensed under this chapter, the professional services may include, but shall not be limited to, the formulation of psychosocial evaluation and assessment, counseling, psychotherapy, referral, advocacy, mediation, consultation, research, administration, education, and community organization.

(B) Nothing in this paragraph shall be construed to authorize any person licensed as a social worker under this chapter to engage in the practice of medicine.

(19)(A) "Practice of speech-language pathology" means the application of principles, methods, or procedures related to the development and disorders of human communication, including any condition, whether of organic or non-organic origin, that impedes the normal process of human communication including disorders and related disorders of speech, articulation, fluency, voice, oral, or written language; auditory comprehension and processing; oral, pharyngeal or laryngeal sensorimotor competencies; swallowing; auditory or visual processing; auditory or visual memory or cognition; communication; and assisted augmentative communication treatment and devices.

(B) The term practice of speech-language pathology also includes the planning, directing, supervising, and conducting of a habilitative and rehabilitative counseling program for individuals or groups of individuals who have, or are suspected of having, disorders of communication, and any service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction, or research.

(C) The practice of speech-language pathology may include pure-tone air conduction hearing screening, screening tympanometry, and acoustic reflex screening, limited to a pass-or-fail determination for the identification of individuals with other disorders of communication and may also include aural habilitation or rehabilitation, which means the provision of services and procedures for facilitating adequate auditory, speech, and language skills in individuals with hearing impairment. The practice of speech-language pathology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

(D) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a school speech-language pathologist working in accordance with the regulations of the District of Columbia Board of Education.

(20) "Practice by surgical assistants" means the provision of aid by a person who is not a physician licensed to practice medicine, under the direct supervision of a surgeon licensed in the District of Columbia, in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.

(Mar. 25, 1986, D.C. Law 6-99, § 102, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(b), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(b), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(a), 41 DCR 7712; Mar. 21, 1995, D.C. Law 10-231, § 2(b), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(b), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; July 24, 1998, D.C. Law 12-139, § 2(a), 45 DCR 2975; Mar. 10, 2004, D.C. Law 15-88, § 2(c), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(b), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(b), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-219, § 2(c), 53 DCR 10211; Mar. 6, 2007, D.C. Law 16-220, § 2(a), 53 DCR 10216; Mar. 6, 2007, D.C. Law 16-221, § 2, 53 DCR 10218; Mar. 6, 2007, D.C. Law 16-228, § 2(b), 53 DCR 10244; Mar. 26, 2008, D.C. Law 17-131, § 102(b), 55 DCR 1659; Mar. 20, 2009, D.C. Law 17-306, § 2(a), 56 DCR 23; Mar. 25, 2009, D.C. Law 17-353, §§ 146(a), 147, 148, 309(a), 56 DCR 1117; July 7, 2009, D.C. Law 18-11, § 2(a), 56 DCR 3602; July 7, 2009, D.C. Law 18-12, § 2(a), 56 DCR 3605; July 7, 2009, D.C. Law 18-13, § 2(b), 56 DCR 3608; July 7, 2009, D.C. Law 18-14, § 2(b), 56 DCR 3613; July 7, 2009, D.C. Law 18-15, § 2(c), 56 DCR 3616; July 7, 2009, D.C. Law 18-16, § 2, 56 DCR 3620; July 7, 2009, D.C. Law 18-17, § 2(a), 56 DCR 3622; July 7, 2009, D.C. Law 18-18, § 2(b), 56 DCR 3624; July 7, 2009, D.C. Law 18-19, § 2(b), 56 DCR 3629; Mar. 14, 2012, D.C. Law 19-104, § 2(a), 59 DCR 435.)

Prior Codifications. — 1981 Ed., § 2-3301.2.

Effect of amendments. — D.C. Law 15-88 added par. (6A).

D.C. Law 15-172, in par. (1), substituted "A licensed acupuncturist does not need to enter into a collaboration agreement with a licensed physician or osteopath to practice acupuncture." for "The practice of acupuncture by a nonphysician acupuncturist shall be carried out in general collaboration with a licensed physician or osteopath."; and added par. (7A).

D.C. Law 15-237 added par. (2A).

D.C. Law 16-219 added pars. (2B) and (19).

D.C. Law 16-220, in par. (12), designated existing text as subparagraph (A), and added subparagraphs (B) and (C).

D.C. Law 16-221, in par. (12)(A), deleted "rendered on the prescription of or referral by a licensed physician, osteopath, dentist, or podiatrist, or by a licensed registered nurse certified to practice as an advanced registered nurse

as authorized pursuant to subchapter VI of this chapter," following "by therapeutic procedures."

D.C. Law 16-228 added par. (20).

D.C. Law 17-131 added par. (10A).

D.C. Law 17-306 rewrote par. (11)(A); and, in par. (11)(B)(ii), substituted "in writing, or on an approved electronic form, dated" for "in writing, dated". Prior to amendment, par. (11)(A) read as follows: "(11)(A) 'Practice of pharmacy' means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices, and the maintenance of proper records therefor; the responsibility of advising, where regulated or otherwise necessary, of therapeutic values and content, hazards, and use of drugs and devices; and the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy."

D.C. Law 17-353, in par. (10A)(B)(iii), substituted "biologic for human use" for "biologic";

and validated previously made technical corrections in the designation of pars. (6A), (6B), (19).

D.C. Law 18-11 rewrote par. (9).

D.C. Law 18-12 added par. (14A).

D.C. Law 18-13 added par. (1A); and rewrote par. (15A).

D.C. Law 18-14 rewrote pars. (16)(A) and (B)(i).

D.C. Law 18-15, in par. (5), substituted "of malformation of a tooth or teeth, or to advertise, offer, sell, or deliver any such substitute or the services rendered in the construction, reproduction, repair, adjustment, or supply thereof to any person other than a licensed dentist;" for "of malformation of a tooth or teeth;" in subpar. (G), deleted "or" at the end of subpar. (H), substituted "; or" for a period at the end of subpar. (I), and added subpar. (J).

D.C. Law 18-16 rewrote par. (14).

D.C. Law 18-17, in par. (6B), rewrote subpar. (A) and repealed subpar. (D).

D.C. Law 18-18 rewrote pars. (2), (15), and (17); and added par. (7B).

D.C. Law 18-19 rewrote par. (7), which had read as follows: "(7) 'Practice of medicine' means the application of scientific principles to prevent, diagnose, and treat physical and mental diseases, disorders, and conditions and to safeguard the life and health of any woman and infant through pregnancy and parturition."

D.C. Law 19-104 added par. (13A).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of Pharmacy Practice Emergency Amendment Act of 2008 (D.C. Act 17-596, December 8, 2008, 55 DCR 12816).

For temporary (90 day) amendment of section, see § 2(a) of Pharmacy Practice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-29, March 16, 2009, 56 DCR 2323).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

Legislative history of Law 10-231. — For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see His-

torical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 12-139. — Law 12-139, the "Definition of Optometry Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-152, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 17, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 22, 1998, it was assigned Act No. 12-341 and transmitted to both Houses of Congress for its review. D.C. Law 12-139 became effective on July 24, 1998.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 15-172. — Law 15-172, the "Practice of Naturopathic Medicine Licensing Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-57, which was referred to Committee of Human Services. The Bill was adopted on first and second readings on March 2, 2004, and April 6, 2004, respectively. Signed by the Mayor on May 5, 2004, it was assigned Act No. 15-419 and transmitted to both Houses of Congress for its review. D.C. Law 15-172 became effective on July 8, 2004.

Legislative history of Law 15-237. — Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-634, which was referred to the Committee Human Services. The Bill was adopted on first and second readings on September 21, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to both Houses of Congress for its review. D.C. Law 15-237 became effective on March 16, 2005.

Legislative history of Law 16-219. — For Law 16-219, see notes following § 3-1201.01.

Legislative history of Law 16-220. — Law 16-220, the "Physical Therapy Assistant Licensure Amendment Act of 2006," was introduced in Council and assigned Bill No. 16-436, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19, 2006, it was assigned Act No. 16-549 and transmitted to both Houses of Con-

gress for its review. D.C. Law 16-220 became effective on March 6, 2007.

Legislative history of Law 16-221. — Law 16-221, the “Physical Practice Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-437, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19, 2006, it was assigned Act No. 16-550 and transmitted to both Houses of Congress for its review. D.C. Law 16-221 became effective on March 6, 2007.

Legislative history of Law 16-228. — Law 16-228, the “Surgical Assistant Licensure Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-712, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19, 2006, it was assigned Act No. 16-557 and transmitted to both Houses of Congress for its review. D.C. Law 16-228 became effective on March 6, 2007.

Legislative history of Law 17-131. — Law 17-131, the “SafeRx Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-364 which was referred to the Committee on Health. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 1, 2008, it was assigned Act No. 17-282 and transmitted to both Houses of Congress for its review. D.C. Law 17-131 became effective on March 26, 2008.

Legislative history of Law 17-306. — Law 17-306, the “Pharmacy Practice Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-787 which was referred to the Committee on Health. The Bill was adopted on first and second readings on November 18, 2008, and December 2, 2008, respectively. Signed by the Mayor on December 16, 2008, it was assigned Act No. 17-606 and transmitted to both Houses of Congress for its review. D.C. Law 17-306 became effective on March 20, 2009.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-11. — Law 18-11, the “Practice of Occupational Therapy Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-32 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-55 and transmitted to both Houses of Congress for its review. D.C. Law 18-11 became effective on July 7, 2009.

Legislative history of Law 18-12. — Law 18-12, the “Practice of Polysomnography Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-33 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-56 and transmitted to both Houses of Congress for its review. D.C. Law 18-12 became effective on July 7, 2009.

Legislative history of Law 18-13. — Law 18-13, the “Practice of Professional Counseling and Addiction Counseling Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-34 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-57 and transmitted to both Houses of Congress for its review. D.C. Law 18-13 became effective on July 7, 2009.

Legislative history of Law 18-14. — Law 18-14, the “Practice of Psychology Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-35 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-58 and transmitted to both Houses of Congress for its review. D.C. Law 18-14 became effective on July 7, 2009.

Legislative history of Law 18-15. — For Law 18-15, see notes following § 3-1201.01.

Legislative history of Law 18-16. — Law 18-16, the “Practice of Podiatry Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-37 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-60 and transmitted to both Houses of Congress for its review. D.C. Law 18-16 became effective on July 7, 2009.

Legislative history of Law 18-17. — Law 18-17, the “Massage Therapy Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-38 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-61 and transmitted to both Houses of Congress for its review. D.C. Law 18-17 became effective on July 7, 2009.

Legislative history of Law 18-18. — Law 18-18, the “Practice of Nursing Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-39 which was referred to the Committee on Health. The Bill was adopted on

first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-62 and transmitted to both Houses of Congress for its review. D.C. Law 18-18 became effective on July 7, 2009.

Legislative history of Law 18-19. — Law 18-19, the “Practices of Medicine and Naturopathic Medicine Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-60 which was referred to the Committee on Health. The Bill was adopted on first and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-63 and transmitted to both Houses of Congress for its review. D.C. Law 18-19 became effective on July 7, 2009.

Legislative history of Law 19-104. — Law 19-104, the “Board of Medicine Membership and Licensing Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-159, which was referred to the Committee on Health. The Bill was adopted on first and second readings on December 6, 2011, and January 4, 2012, respectively. Signed by the Mayor on January 20, 2012, it was assigned Act No. 19-279 and transmitted to both Houses of Congress for its review. D.C. Law 19-104 became effective on March 14, 2012.

Delegation of Authority. — Delegation of Authority pursuant to D.C. Law 17-131, the SafeRX Amendment Act of 2008, see Mayor’s Order 2008-94, July 3, 2008

CASE NOTES

ANALYSIS

Chiropractors.
Degree in psychology.
Expert testimony.
Practice of medicine.

Chiropractors.

Since laborer’s treating chiropractor could not prescribe physical therapy on her own authority, her testimony as to whether physical therapy was necessary for laborer, who was injured at his workplace when he tripped and fell over a metal plate in area where company was performing repairs, exceeded the limitations of her expertise in this area. Structural Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Although chiropractors can refer patients to others for care, chiropractors are not among the health professionals who can prescribe physical therapy. Structural Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Since chiropractors were allowed to refer patients to other doctors and laborer’s treating chiropractor made such a referral, it was permissible for chiropractor to testify as to why she referred laborer to doctor for injections in context of negligence action brought against company by laborer, who was injured at his workplace when he tripped and fell over a metal plate in an area where company was performing repairs. Structural Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Since laborer’s treating chiropractor could not prescribe physical therapy on her own authority, her testimony as to whether physical therapy was necessary for laborer, who was injured at his workplace when he tripped and fell over a metal plate in area where company was performing repairs, exceeded the limitations of her expertise in this area. Structural

Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Although laborer’s treating chiropractor was not qualified to diagnose avascular necrosis without going beyond her experience as a chiropractor, she could state that, based on her examination and what laborer told her, his injury and pain were attributed to his back, and although chiropractor might not have had the expertise to testify about how avascular necrosis affected laborer’s back, that limitation should go to weight, rather than admissibility, of the testimony that she provided in negligence action brought against company by laborer, who was injured at his workplace when he tripped and fell over metal plate in area where company was performing repairs. Structural Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Since chiropractors were allowed to refer patients to other doctors and laborer’s treating chiropractor made such a referral, it was permissible for chiropractor to testify as to why she referred laborer to doctor for injections in context of negligence action brought against company by laborer, who was injured at his workplace when he tripped and fell over a metal plate in an area where company was performing repairs. Structural Pres. Sys. v. Petty, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Degree in psychology.

Board of Psychology’s determination that applicant’s doctoral degree in guidance and counseling was not a “degree in psychology,” as would entitle applicant to become licensed psychologist, was supported by substantial evidence; neither applicant’s degree nor her official transcript stated that degree was one in psychology, applicant’s degree was not listed in relevant edition of designated doctoral pro-

grams in psychology, and applicant did not seek to have her degree certified as one in psychology. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Board of Psychology's determination that applicant's doctoral degree in guidance and counseling was not the requisite "degree in psychology" that would allow applicant to be licensed to practice psychology was not arbitrary or capricious; Board could properly rely on determinations of accredited institutions and professional associations in determining nature of applicant's degree and Board was not required to evaluate applicant's individual courses. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Unsuccessful applicant for psychology license failed to demonstrate that Board of Psychology unconstitutionally delegated to private organizations its rule-making authority to determine what constituted a "degree in psychology"; applicant failed to prove that organizations lacked standards consistent with Health Occupation Revision Act or applied their standards other than in uniform manner. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Expert testimony.

A chiropractor should be allowed to provide expert testimony as to the practice of chiropractic. *Structural Pres. Sys. v. Petty*, 927 A.2d 1069, 2007 D.C. App. LEXIS 390 (2007).

Practice of medicine.

"Treatment," for purposes of statute defining "practice of medicine," is not so broad as to include conduct that merely affects, influences, or substantially impacts course of care by others; equating "treatment" with any conduct that "practically affects" it, in ways potentially involving no exercise of medical judgment, is contrary to any sensible interpretation of statute. D.C. Code 1981, § 2-3301.2(7). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

Physician employed as vice president and medical director of insurance company was not engaged in "practice of medicine," so as to require license, even though he signed letters containing committee recommendations as "M.D.," he bore title of "Medical Director," and

company desired physician in his position because "there would be a significant amount of interaction with health care providers" and "physicians are generally more prone to listen to other physicians"; duties and responsibilities of physician's position were exclusively administrative. D.C. Code 1981, § 2-3301.2(7). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

There was no substantial evidence that physician employed as vice president and medical director of insurance company had voice, as doctor, in recommendations of medical advisers and review committees as to payment of claims and/or possible inappropriate treatment, and thus, he was not performing "diagnosis," so as to be engaged in "practice of medicine" without license; his testimony that he took no part in deliberations of committee and had no vote on its recommendations was uncontradicted. D.C. Code 1981, § 2-3301.2(7). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

It was not unreasonable for the Board of Medicine to determine that false testimony given by physician as expert in medical malpractice action constituted a false report in the "practice of medicine," warranting discipline, even though the patient whose care was at issue in the action was already dead at the time of the misrepresentations. D.C. Code 1981, § 2-3301.2(7). *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

There is sufficient connection with the practice of medicine to warrant discipline if a false report is made by a physician in connection with prevention, diagnosis, or treatment, and the Board of Medicine need not show that the physician was both preventing, diagnosing, and treating a disease or condition at the time of the conduct. D.C. Code 1981, § 2-3301.2(7). *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

Board of Medicine could conclude that physician conducted an investigation and analysis of nature of victim's condition, and specifically the cause of her death, and thus engaged in "diagnosis" when giving expert testimony in wrongful death action, so that he was engaged in practice of medicine. D.C. Code 1981, § 2-3301.2(7). *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

§ 3-1201.03. Scope of chapter.

(a) This chapter does not limit the right of an individual to practice a health occupation that he or she is otherwise authorized to practice under this chapter, nor does it limit the right of an individual to practice any other

profession that he or she is authorized to practice under the laws of the District.

(b) The practices of health occupations regulated by this chapter are not intended to be mutually exclusive.

(c) This chapter shall not be construed to prohibit the practice of a health occupation by an individual enrolled in a recognized school or college as a candidate for a degree or certificate in a health occupation, or enrolled in a recognized postgraduate training program provided that the practice is:

(1) Performed as a part of the individual's course of instruction;

(2) Under the supervision of a health professional who is either licensed to practice in the District or qualified as a teacher of the practice of the health occupation by the board charged with the regulation of the health occupation;

(3) Performed at a hospital, nursing home, or health facility operated by the District or federal government, a health education center, or other health-care facility considered appropriate by the school or college; and

(4) Performed in accordance with procedures established by the board charged with the regulation of the health occupation.

(d) Nothing in this chapter shall be construed to require licensure for or to otherwise regulate, restrict, or prohibit individuals from engaging in the practices, services, or activities set forth in the paragraphs of this subsection if the individuals do not hold themselves out, by title, description of services, or otherwise, to be practicing any of the health occupations regulated by this chapter. Nothing in this subsection shall be construed as exempting any of the following categories from other applicable laws and regulations of the District or federal government:

(1) Any minister, priest, rabbi, officer, or agent of any religious body or any practitioner of any religious belief engaging in prayer or any other religious practice or nursing practiced solely in accordance with the religious tenets of any church for the purpose of fostering the physical, mental, or spiritual well-being of any person;

(2) Any person engaged in the care of a friend or member of the family, including the domestic administration of family remedies, or the care of the sick by domestic servants, housekeepers, companions, or household aids of any type, whether employed regularly or because of an emergency or illness, or other volunteers;

(3) Any individual engaged in the lawful practice of audiology, speech pathology, X-ray technology, laboratory technology, or respiratory therapy;

(4) An orthotist or prosthetist engaged in fitting, making, or applying splints or other orthotic or prosthetic devices;

(5) Any individual engaged in the practice of cosmetology or the operation of a health club;

(6) Any individual engaged in the commercial sale or fitting of shoes or foot appliances; or

(7) Marriage and family therapists, marriage counselors, art therapists, drama therapists, attorneys, or other professionals working within the standards and ethics of their respective professions.

(e) This chapter shall not be construed to prohibit the practice of a health occupation by an individual who has filed an initial application for licensure in

the health occupation and is awaiting action on that initial application, provided the practice is performed:

- (1) Under the supervision of a health professional licensed in the District;
- (2) At a hospital, nursing home, health facility operated by the District or federal government, or other health care facility considered appropriate by the Board; and

- (3) In accordance with any other requirements established by the Mayor.

(f) This chapter does not prohibit the practice of a health occupation by an individual who is authorized to practice the health occupation under Chapter 23C of Title 7 [§ 7-2361.01 et seq.], while an emergency declaration is in effect.

(Mar. 25, 1986, D.C. Law 6-99, § 103, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(c), 39 DCR 3824; Mar. 23, 1995, D.C. Law 10-247, § 2(c), 42 DCR 457; July 7, 2009, D.C. Law 18-17, § 2(b), 56 DCR 3622; July 1, 2010, D.C. Law 18-184, § 14(c), 57 DCR 3655)

Prior Codifications. — 1981 Ed., § 2-3301.3.

Effect of amendments. — D.C. Law 18-17, in subsec. (d)(5), deleted “, the practice of nontherapeutic massage,” following “cosmetology”.

D.C. Law 18-184, in the section heading, inserted “; exemption for services provided during emergency”; and added subsec. (c).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-17. — For Law 18-17, see notes following § 3-1201.02.

Legislative history of Law 18-184. — For Law 18-184, see notes following § 3-411.

§ 3-1201.04. Persons licensed under prior law.

(a) Except as expressly provided to the contrary in this chapter, any person licensed, registered, or certified by any agency of the District established or continued by any statute amended, repealed, or superseded by this act is considered for all purposes to be licensed, registered, or certified by the appropriate health occupations board established under this chapter for the duration of the term for which the license, registration, or certification was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this chapter.

(b) Except as provided to the contrary in this chapter, an individual who was originally licensed, registered, or certified under a provision of law that has been deleted by this act continues to meet the education and experience requirements as if that provision had not been deleted.

(c) Each employee of the Commission on Mental Health Services who was employed at St. Elizabeths Hospital prior to October 1, 1987, and who accepted employment with the District government on October 1, 1987, without a break in service, shall, within 27 months of appointment by the District government, meet all licensure requirements. If the employee does not meet all licensure requirements, the employee shall be issued a limited license subject to the provisions, limitations, conditions, or restrictions that shall be determined by the appropriate board or commission. The limited license shall not exceed the term of employment with the Commission on Mental Health Services.

(Mar. 25, 1986, D.C. Law 6-99, § 104, 33 DCR 729; Oct. 18, 1989, D.C. Law 8-40, § 3, 36 DCR 5756.)

Cross references. — Transfer from District government employment to private employment, see § 24-261.02b.

Nomination and approval of agency heads, see § 1-523.01.

Prior Codifications. — 1981 Ed., § 2-3301.4.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 8-40. — Law 8-40, the "Commission on Mental Health Ser-

vices Employees Retention Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-104, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-69 and transmitted to both Houses of Congress for its review.

References in text. — "This Act," referred to near the middle of subsections (a) and (b), is D.C. Law 6-99.

CASE NOTES

ANALYSIS

Due process.

Equal protection.

Due process.

That requirements for obtaining license in psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant due process, insofar as applicant did not come within grandfather clause and had no constitutionally protected right to receive license. D.C. Code 1981, § 2-3305.4(o); U.S. Const. Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Equal protection.

That requirements for obtaining license in

psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant equal protection, even though foreign trained applicants were allowed to prove their degrees were substantially equivalent to the required degree in psychology; legislature could reasonably conclude that foreign trained applicants would face different obstacles than person trained in United States where there is professional agreement about requirements for course curricula and there are universities with psychology degree-granting departments. D.C. Code 1981, § 2-3305.4(o); U.S. Const. Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Subchapter II. Establishment of Health Occupation Boards and Advisory Committees; Membership; Terms.

§ 3-1202.01. Board of Dentistry.

(a) There is established a Board of Dentistry consisting of 7 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practices of dentistry and dental hygiene and dental assistants.

(c) Of the members of the Board, 5 shall be dentists licensed in the District, 1 shall be a dental hygienist licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are

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sworn in, which shall become the anniversary date for all subsequent appointments.

(f) The Board shall provide advice to the Mayor concerning limitations, which the Mayor may impose by rule, on the number of dental hygienists who may be supervised by 1 dentist, provided that the limit may not be reduced below the ratio of 2 dental hygienists to 1 dentist, and provided that this limitation shall not apply to dentists or dental hygienists who are employees of, or operating pursuant to a contract with, the District or federal government.

(Mar. 25, 1986, D.C. Law 6-99, § 201, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(a), 34 DCR 3789; July 7, 2009, D.C. Law 18-15, § 2(d), 56 DCR 3616.)

Prior Codifications. — 1981 Ed., § 2-3302.1.

Effect of amendments. — D.C. Law 18-15 rewrote subsec. (b), which had read as follows: “(b) The Board shall regulate the practice of dentistry and dental hygiene.”

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — Law 7-31, the “Boards and Commissions Amend-

ment Act of 1987,” was introduced in Council and assigned Bill No. 7-139, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-26 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-15. — For Law 18-15, see notes following § 3-1201.01.

§ 3-1202.02. Board of Dietetics and Nutrition.

(a) There is established a Board of Dietetics and Nutrition to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of dietetics and nutrition.

(c) Of the members of the Board, 1 shall be a licensed dietitian, 1 shall be a licensed nutritionist who is not a dietitian, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years.

(Mar. 25, 1986, D.C. Law 6-99, § 202, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3302.2.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1202.03. Board of Medicine; Advisory Committees on Acupuncture, Anesthesiologist Assistants, Naturopathic Medicine, Physician Assistants, Polysomnography, and Surgical Assistants.

(a)(1) There is established a Board of Medicine to consist of 15 members appointed by the Mayor with the advice and consent of the Council.

(2) The Board shall regulate the practice of medicine, the practice of acupuncture with the advice of the Advisory Committee on Acupuncture, the

practice by anesthesiologists assistants with the advice of the Advisory Committee on Anesthesiologists Assistants, the practice of naturopathic medicine with the advice of the Advisory Committee on Naturopathic Medicine, the practice by physician assistants with the advice of the Advisory Committee on Physician Assistants, the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants, and the practice by physicians-in-training.

(3) Of the members of the Board, 10 shall be physicians licensed to practice in the District, 4 shall be consumer members, and 1 shall be the Director of the Department of Health, or his or her designee.

(4) In selecting nominees to the Board, the Mayor shall consult with appropriate officials of professional medical societies and schools of medicine located in the District, and shall submit nominees whose professional training and experience provide a representative sample of the medical specialties practiced in the District.

(5) Except as provided in paragraph (6) of this subsection, members of the Board shall be appointed for terms of 3 years. This paragraph shall not apply to the Director of the Department of Health who shall serve for the duration of his or her term as Director.

(6) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(7)(A) The Mayor shall appoint an executive director who shall be a full-time employee of the District to administer and implement the orders of the Board in accordance with this chapter and rules and regulations issued pursuant to this chapter.

(B) On or before January 1, 2007, in addition to the executive director, the Mayor shall require, at a minimum, that an investigator, an attorney, and 2 clerical support staff be hired, which persons shall be full-time employees of the District and whose work shall be limited solely to administering and implementing the orders of the Board in accordance with this chapter and rules and regulations issued pursuant to this chapter. The mandatory minimum number of employees established under this section shall not restrict the Mayor's ability to authorize additional staff.

(8) The Board shall provide recommendations to the Mayor for his consideration in developing and issuing rules authorizing:

(A) The practice of acupuncture in accordance with guidelines approved by the Advisory Committee on Acupuncture;

(B) Repealed;

(B-i) The practice by anesthesiologist assistants in accordance with guidelines approved by the Advisory Committee on Anesthesiologist Assistants;

(B-ii) The practice of naturopathic medicine in accordance with guidelines approved by the Advisory Committee on Naturopathic Medicine;

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(C) The practice by physician assistants in accordance with guidelines approved by the Advisory Committee on Physician Assistants;

(C-i) The practice of polysomnography in accordance with guidelines approved by the Advisory Committee on Polysomnography;

(D) The practice of surgical assistants in accordance with guidelines approved by the Advisory Committee on Surgical Assistants; and

(E) The practice by physicians-in-training.

(a-1)(1) The Board shall waive the educational and examination requirements for any applicant for licensure as a physician assistant who can demonstrate, to the satisfaction of the Board, that he or she has performed the function of a physician assistant, as defined in this chapter and rules issued pursuant to this chapter, on a full-time or substantially full-time basis continuously for at least 36 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 12 months of July 25, 1990.

(2) An applicant licensed under paragraph (1) of this subsection shall be eligible for license renewal on the same terms as any other licensed physician assistant.

(a-2) Pursuant to § 7-1671.07, the Board shall review and audit written recommendations for the use of medical marijuana issued by physicians pursuant to § 7-1671.04 and shall have the authority to discipline any physician who has acted outside the scope of the physician's authority under Chapter 16B of Title 7 [§ 7-1671.01 et seq.].

(b)(1) There is established an Advisory Committee on Acupuncture to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Acupuncture shall develop and submit to the Board guidelines for the licensing of acupuncturists and the regulation of the practice of acupuncture in the District.

(3) Of the members of the Advisory Committee on Acupuncture, 1 shall be a physician licensed in the District who has training and experience in the practice of acupuncture, 1 shall be a nonphysician acupuncturist licensed in the District, and 1 shall be the Director of the Department of Health or his or her designee.

(4) The Advisory Committee on Acupuncture shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c) Repealed.

(c-1)(1) There is established an Advisory Committee on Anesthesiologist Assistants to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Anesthesiologist Assistants shall develop and submit to the Board guidelines for the licensing and regulation of anesthesiologist assistants in the District. The guidelines shall set forth the actions which may be performed by anesthesiologist assistants under the direct supervision of a licensed anesthesiologist, who shall be responsible for the overall medical direction of the care and treatment of patients.

(3) Of the members of the Advisory Committee on Anesthesiologist Assistants, 1 shall be an anesthesiologist licensed in the District with experience working with anesthesiologist assistants, 1 shall be an anesthesiologist assistant licensed in the District, and 1 shall be the Commissioner of Public Health, or his or her designee.

(4) The Advisory Committee on Anesthesiologist Assistants shall submit initial guidelines to the Board within 180 days of March 16, 2005, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c-2)(1) There is established an Advisory Committee on Naturopathic Medicine to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Naturopathic Medicine shall develop and submit to the Board guidelines for the licensing of naturopathic physicians and the regulation of the practice of naturopathic medicine in the District.

(3) Of the members of the Advisory Committee on Naturopathic Medicine, 1 shall be a licensed physician with experience in naturopathic medicine or in working with naturopathic physicians, 1 shall be a licensed naturopathic physician, and 1 shall be the Director of the Department of Health or his or her designee.

(4) An individual who is eligible for licensure to practice naturopathic medicine and is currently registered to practice naturopathy in the District may be appointed as the initial naturopathic physician member of the Advisory Committee on Naturopathic Medicine.

(5) The Advisory Committee on Naturopathic Medicine shall submit initial guidelines to the Board within 180 days of July 8, 2004, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(d)(1) There is established an Advisory Committee on Physician Assistants to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Physician Assistants shall develop and submit to the Board guidelines for the licensing and regulation of physician assistants in the District. The guidelines shall set forth the actions which may be performed by physician assistants in collaboration with a licensed physician or osteopath, who shall be responsible for the overall medical direction of the care and treatment of patients, and the levels of collaboration required for each action.

(3) Of the members of the Advisory Committee on Physician Assistants, 1 shall be a physician or osteopath licensed in the District with experience working with physician assistants, 1 shall be a physician assistant licensed in the District, and 1 shall be the Director of the Department of Health or his or her designee.

(4) The Advisory Committee on Physician Assistants shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(d-1)(1) There is established an Advisory Committee on Polysomnography to consist of 5 members appointed by the Mayor.

(2) The Advisory Committee on Polysomnography shall develop and submit to the Board guidelines for licensing, registration, and regulation of polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees in the District. The guidelines shall set forth the education and experience requirements for registration and licensure and the actions that may be performed by polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees.

(3) Of the members of the Advisory Committee on Polysomnography, 2 shall be physicians who have been certified by a national accrediting body as sleep specialists, 2 shall be licensed polysomnographic technologists, and one shall be the Director of the Department of Health or his designee.

(4) The Advisory Committee on Polysomnography shall submit initial guidelines to the Board within 180 days of July 7, 2009, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(d-2)(1) There is established an Advisory Committee on Surgical Assistants to consist of 5 members appointed by the Mayor.

(2) The Advisory Committee on Surgical Assistants shall develop and submit to the Board guidelines for the licensing and regulation of surgical assistants in the District. The guidelines shall set forth the actions that may be performed by surgical assistants under the direct supervision of a licensed surgeon, who shall be responsible for the overall medical direction of the care and treatment of patients.

(3) Of the members of the Advisory Committee on Surgical Assistants, one shall be a surgeon licensed in the District with experience working with surgical assistants, 3 shall be surgical assistants licensed in the District, and one shall be the Director of the Department of Health, or his or her designee.

(4) The Advisory Committee on Surgical Assistants shall submit initial guidelines to the Board within 180 days of March 6, 2007, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(e) Of the members initially appointed to the Advisory Committees on Acupuncture, Anesthesiologist Assistants, Naturopathic Medicine, and Physician Assistants, and Surgical Assistants, 1 member of each committee shall be appointed to a term of 2 years and 1 member of each shall be appointed to a term of 3 years. Subsequent appointments shall be for terms of 3 years. This subsection shall not apply to the Director of the Department of Health, or his or her designee.

(f) Upon request by the Board, the Advisory Committees on Acupuncture, Anesthesiologist Assistants, Physician Assistants, and Surgical Assistants shall, respectively, review applications for licensure to practice acupuncture or to practice as an anesthesiologist assistant, a physician assistant, or a surgical assistant and shall forward recommendations to the Board for action.

(g) Repealed.

(h)(1) The Board may convene a subcommittee, of either members of the Board or nonmembers of the Board, to provide advice and assistance on a specified issue or discipline under the purview of the Board.

(2) The individuals appointed pursuant to this subsection shall be exempt from §§ 3-1204.01(a) and (b), 3-1204.02, and 3-1204.03. The Board shall specify:

- (A) The purpose and scope of the subcommittee;
- (B) The qualifications for appointment;
- (C) The length of each individual's term, if any;
- (D) The powers, duties, and responsibilities of each individual; and
- (E) Any other criteria that the Board considers necessary and appropriate.

(Mar. 25, 1986, D.C. Law 6-99, § 203, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(b), 34 DCR 3789; Jan. 30, 1990, D.C. Law 8-60, § 2, 36 DCR 7386; July 25, 1990, D.C. Law 8-152, § 2, 37 DCR 3743; Mar. 21, 1995, D.C. Law 10-231, § 2(c), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(d), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(c), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(c), 51 DCR 10593; Oct. 20, 2005, D.C. Law 16-33, § 5022, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 17(a), 53 DCR 6794; Mar. 6, 2007, D.C. Law 16-228, § 2(c), 53 DCR 10244; Mar. 14, 2007, D.C. Law 16-263, § 201(a), 54 DCR 807; Mar. 25, 2009, D.C. Law 17-353, § 188(a), 56 DCR 1117; July 7, 2009, D.C. Law 18-12, 2(b), 56 DCR 3605; July 27, 2010, D.C. Law 18-210, § 3(a), 57 DCR 4798; Mar. 14, 2012, D.C. Law 19-104, § 2(b), 59 DCR 435.)

Prior Codifications. — 1981 Ed., § 2-3302.3.

Effect of amendments. — D.C. Law 15-172, in the section heading, substituted “, Naturopathic Medicine, and” for “and”; in subsec. (a), added “the practice of naturopathic medicine with the advice of the Advisory Committee on Naturopathic Medicine” after “Advisory Committee on Acupuncture” in par. (2), deleted “and” in subpar. (A) of par. (8), and added subpar. (B-1) of par. (8); added subsec. (c-1); in subsec. (e), substituted “Naturopathic Medicine, and Physician” for “and Physician” and substituted “Commissioner of Public Health or the Director of the Department of Health, or to their designees” for “Commissioner of Public Health or his or her designee”; and rewrote subsec. (f). Prior to amendment, subsec. (f) had read as follows: “(f) Upon request by the Board, the Advisory Committees on Acupuncture and Physician Assistants shall review applications for licensure to practice acupuncture or to practice as a physician assistant, respectively, and shall forward recommendations to the Board for action.”

D.C. Law 15-237, in the section heading, inserted “Anesthesiologist Assistants,”; in par. (2) of subsec. (a), inserted “the practice by anesthesiologist assistants with the advice of the Advisory Committee on Anesthesiologist Assistants,”; in par. (8) of subsec. (a), redesignated former subpar. (B-1) as (B-2) and added new subpar. (B-1); redesignated former subsec. (c-1) as (c-2) and added new subsec. (c-1); in

subsec. (e), inserted “Anesthesiologist Assistants,”; and, in subsec. (f), inserted “Anesthesiologist Assistants,” and “an anesthesiologist assistant or”.

D.C. Law 16-33, in subsec. (a)(3), substituted “Director of the Department of Health, or his or her designee” for “Commissioner of Public Health”; in subsec. (a)(5), substituted “Director of the Department of Health” for “Commissioner of Public Health”, and substituted “as Director” for “as Commissioner”; in subsec. (b)(3), substituted “Director of the Department of Health” for “Commissioner of Public Health”; in subsec. (d), substituted “Director of the Department of Health” for “Commissioner of Public Health”; and in subsec. (e), substituted “Director of the Department of Health, or his or her designee” for “Commissioner of Public Health or the Director of the Department of Health, or to their designees”.

D.C. Law 16-191, in subsec. (a)(8)(B-1), validated a previously made technical correction.

D.C. Law 16-228, in the section heading, substituted “Surgical Assistants” for “and Physician Assistants”; in subsec. (a), par. (2), substituted “the practice of physician assistants with the advice of the Advisory Committee on Physician Assistants, and the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants” for “and the practice of physician assistants with the advice of the Advisory Committee on Physician Assistants”; in subsec. (a), par. (8), added subparagraph (D); added subsec. (c-3); and in subsecs.

(e) and (f), added surgical assistants to the scope of each respective subsection.

D.C. Law 16-263, in subsec. (a)(7), designated subpar. (A) and added subpar. (B).

D.C. Law 17-353, in subsec. (a)(8), substituted the subparagraph designations (B-i) and (B-ii) for (B-1) and (B-2), respectively.

D.C. Law 18-12, in the section heading, inserted "Polysomnography,"; in subsec. (a)(8), deleted "and" from the end of subpars. (B-ii) and (C) and added subpar. (C-i); redesignated subsec. (c-3) as (d-2); and added subsec. (d-1).

D.C. Law 18-210 added subsec. (a-2).

D.C. Law 19-104, in subsec. (a)(1), substituted "15" for "11"; in subsec. (a)(2), substituted "Assistants, the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants, and the practice by physicians-in-training." for "Assistants, and the practice of surgical assistants with the advice of the Advisory Committee on Surgical Assistants."; in subsec. (a)(3), substituted "10" for "7" and "4" for "3"; in subsec. (a)(8), redesignated subpar. (c-1) as (c-i) and substituted a semicolon for a period at the end, substituted "; and" for a period in subpar. (D), and added subpar. (E); and added subsec. (h).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Temporary Amendment Act of 1989 (D.C. Law 8-60, January 30, 1990, law notification 37 DCR 1210).

Emergency legislation. — For temporary (90 day) amendment of section, see § 5022 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

Legislative history of Law 8-152. — Law 8-152, the "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-353, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 1, 1990, and May 15, 1990, respectively. Signed by the Mayor on May 30, 1990, it was assigned Act No. 8-210 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-231. — For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1201.02.

Legislative history of Law 16-33. — Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005" was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 3-326.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 16-263. — Law 16-263, the "Medical Malpractice Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-334, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-619 and transmitted to both Houses of Congress for its review. D.C. Law 16-263 became effective on March 14, 2007.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-12. — For Law 18-12, see notes following § 3-1201.02.

Legislative history of Law 18-210. — Law 18-210, the "Legalization of Marijuana for Medical Treatment Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-622, which was referred to the Committee on Health and the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on May 21, 2010, it was assigned Act No. 18-429 and transmitted to both Houses of Congress for its review. D.C. Law 18-210 became effective on July 27, 2010.

For history of Law 19-,104 see notes under § 3-1201.02.

Short title. — Short title of subtitle C of title V of Law 16-33: Section 5021 of D.C. Law 16-33 provided that subtitle C of title V of the act may be cited as the Board of Medicine Amendment Act of 2005.

§ 3-1202.04. Board of Nursing.

(a) There is established a Board of Nursing to consist of 11 members appointed by the Mayor with the advice and consent of the Council.

(b)(1) The Board shall regulate the practice of advanced practice registered nursing, registered nursing, practical nursing, and nursing assistive personnel. Advanced practice registered nursing shall include the categories of nurse midwife, nurse anesthetist, nurse-practitioner, and clinical nurse specialist.

(2) The Board shall recommend for promulgation by the Mayor curricula and standards required for the approval of nursing schools and nursing programs in the District of Columbia. At a minimum, the Board shall require that nursing schools and nursing programs be accredited by a Board-recognized national nursing accrediting agency. The Board may also recommend to the Mayor rules governing the procedures for withdrawing approval of nursing schools and nursing programs.

(c) Of the members of the Board, 7 shall be registered nurses licensed and practicing in the District; 2 shall be practical nurses licensed in the District; and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(f) The Mayor shall appoint an executive director, who shall be a full-time employee of the District, to administer and implement the orders of the Board in accordance with this subchapter and rules and regulations issued pursuant to this subchapter.

(Mar. 25, 1986, D.C. Law 6-99, § 204, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(c), 34 DCR 3789; Mar. 23, 1995, D.C. Law 10-247, § 2(e), 42 DCR 457; July 7, 2009, D.C. Law 18-18, § 2(c), 56 DCR 3624.)

Prior Codifications. — 1981 Ed., § 2-3302.4.

Effect of amendments. — D.C. Law 18-18 rewrote subsec. (b); and added subsec. (f).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see His-

torical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-18. — For Law 18-18, see notes following § 3-1201.02.

Editor's notes. — Establishment of Nursing Shortage Study Commission: Section 2 of D.C. Law 7-35 provided for the establishment of the District of Columbia Nursing Shortage Study Commission, including the appointment, membership, duration, focus of study, reports, reimbursement, office space and support personnel.

§ 3-1202.05. Board of Nursing Home Administration.

(a) There is established a Board of Nursing Home Administration to consist

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of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of nursing home administration.

(c) Of the members of the Board, 2 shall be nursing home administrators licensed in the District, 1 shall be an educator from an institution of higher learning engaged in teaching health care administration, 1 shall be a physician or osteopath licensed in the District who has a demonstrated interest in long-term care, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(Mar. 25, 1986, D.C. Law 6-99, § 205, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(d), 34 DCR 3789.)

Prior Codifications. — 1981 Ed., § 2-3302.5.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

§ 3-1202.06. Board of Occupational Therapy.

(a) There is established a Board of Occupational Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of occupational therapy and the practice by occupational therapy assistants, dance therapists, and recreation therapists.

(c) Of the members of the Board, 3 shall be occupational therapists licensed in the District, one shall be a recreation therapist registered in the District.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

(Mar. 25, 1986, D.C. Law 6-99, § 206, 33 DCR 729; July 7, 2009, D.C. Law 18-11, § 2(b), 56 DCR 3602.)

Prior Codifications. — 1981 Ed., § 2-3302.6.

Effect of amendments. — D.C. Law 18-11 rewrote subssecs. (b) and (c).

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-11. — For Law 18-11, see notes following § 3-1201.02.

§ 3-1202.07. Board of Optometry.

(a) There is established a Board of Optometry to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of optometry.

(c) Of the members of the Board, 4 shall be optometrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

(f) The Board shall grant applications by licensed optometrists for certification to administer diagnostic pharmaceutical agents for applicants who demonstrate to the satisfaction of the Board that they have:

(1) Successfully completed a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry, that consists of at least 55 classroom hours, including a minimum of 10 classroom hours of clinical laboratory, offered or approved by an accredited institution of higher education; and

(2) Passed an examination administered or approved by the Board on general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications, and emergency care associated with the use of diagnostic pharmaceutical agents.

(g) The Board shall grant applications for certification to administer therapeutic pharmaceutical agents to applicants who demonstrate to the satisfaction of the Board that they have:

(1) Been certified by the Board to use diagnostic pharmaceutical agents;

(2) Successfully completed a Board-approved course in the use of therapeutic pharmaceutical agents as it relates to the practice of optometry, offered by an accredited institution of higher learning; and

(3) Passed an examination administered or approved by the Board on the use of therapeutic pharmaceutical agents.

(Mar. 25, 1986, D.C. Law 6-99, § 207, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(f), 42 DCR 457; July 24, 1998, D.C. Law 12-139, § 2(b), 45 DCR 2975.)

Prior Codifications. — 1981 Ed., § 2-3302.7.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 12-139. — Law 12-139, the "Definition of Optometry Amend-

ment Act of 1998," was introduced in Council and assigned Bill No. 12-152, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 17, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 22, 1998, it was assigned Act No. 12-341 and transmitted to both Houses of Congress for its review. D.C. Law 12-139 became effective on July 24, 1998.

§ 3-1202.08. Board of Pharmacy.

(a) There is established a Board of Pharmacy to consist of 7 members appointed by the Mayor.

(b)(1) The Board shall regulate the practice of pharmacy and the practice of pharmaceutical detailing.

(2) The Board is authorized to:

(A) Establish a code of ethics for the practice of pharmaceutical detailing; and

(B) Collect information from licensed pharmaceutical detailers relating to their communications with licensed health professionals, or with employees or representatives of licensed health professionals, located in the District.

(c) Of the members of the Board, 5 shall be pharmacists licensed in the District and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years.

(f) An individual licensed to practice pharmacy pursuant to this chapter may administer immunizations and vaccinations only if certified to do so by the Board and only pursuant to a written protocol and valid prescription or standing order of a physician.

(g) The Board and the Board of Medicine shall jointly develop and promulgate regulations to implement and regulate the administration of vaccinations and immunizations by pharmacists and to authorize pharmacists certified to administer vaccinations and immunizations to administer emergency anaphylactic reaction treatment pursuant to an approved physician-pharmacist protocol.

(Mar. 25, 1986, D.C. Law 6-99, § 208, 33 DCR 729; Mar. 26, 2008, D.C. Law 17-131, § 102(c), 55 DCR 1659; Mar. 20, 2009, D.C. Law 17-306, § 2(b), 56 DCR 23.)

Prior Codifications. — 1981 Ed., § 2-3302.8.

Effect of amendments. — D.C. Law 17-131 rewrote subsec. (b), which had read as follows: “(b) The Board shall regulate the practice of pharmacy.”

D.C. Law 17-306 added subsecs. (f) and (g).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Pharmacy Practice Emergency Amendment Act of 2008 (D.C. Act 17-596, December 8, 2008, 55 DCR 12816).

For temporary (90 day) amendment of section, see § 2(b) of Pharmacy Practice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-29, March 16, 2009, 56 DCR 2323).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1201.02.

Legislative history of Law 17-306. — For Law 17-306, see notes following § 3-1201.02.

§ 3-1202.09. Board of Physical Therapy.

(a) There is established a Board of Physical Therapy to consist of 7 members appointed by the Mayor.

(b) The Board shall regulate the practice of physical therapy, including practice by physical therapy assistants.

(c) Of the members of the Board, 4 shall be physical therapists licensed in the District, 2 shall be physical therapy assistants licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

(Mar. 25, 1986, D.C. Law 6-99, § 209, 33 DCR 729; Mar. 6, 2007, D.C. Law 16-220, § 2(b), 53 DCR 10216.)

Prior Codifications. — 1981 Ed., § 2-3302.9.

Effect of amendments. — D.C. Law 16-220, in subsec. (a), increased the size of the Board of Physical Therapy from 5 members to 7 members; in subsec. (b), inserted “including practice by physical therapy assistants”; and, in subsec. (c), substituted “the District, 2 shall

be physical therapy assistants licensed in the District” for “the District”.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 16-220. — For Law 16-220, see notes following § 3-1201.02.

§ 3-1202.10. Board of Podiatry.

(a) There is established a Board of Podiatry to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of podiatry.

(c) Of the members of the Board, 2 shall be podiatrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years.

(Mar. 25, 1986, D.C. Law 6-99, § 210, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3302.10.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

CASE NOTES

In general.

Podiatrist was competent to give expert testimony as to causal connection between denial of patient's diabetes medication and onset of gangrene in injured foot, upon determination

that podiatrist was qualified as expert in care of feet of diabetics. *District of Columbia v. Anderson*, 597 A.2d 1295, 1991 D.C. App. LEXIS 264 (1991).

§ 3-1202.11. Board of Psychology.

(a) There is established a Board of Psychology to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of psychology and the practice by psychology associates.

(c) Of the members of the Board, 4 shall be psychologists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(Mar. 25, 1986, D.C. Law 6-99, § 211, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(e), 34 DCR 3789; July 7, 2009, D.C. Law 18-14, § 2(c), 56 DCR 3613.)

Prior Codifications. — 1981 Ed., § 2-3302.11.

Effect of amendments. — D.C. Law 18-14, in subsec. (b), substituted “psychology and the practice by psychology associates” for “psychology”.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

Legislative history of Law 18-14. — For Law 18-14, see notes following § 3-1201.02.

§ 3-1202.12. Board of Social Work.

(a) There is established a Board of Social Work to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of social work, including categories of specialties within the social work profession.

(c) Of the members of the Board, 4 shall be social workers licensed in the District, representing each of the 4 licensing categories established by subchapter VIII of this chapter, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(Mar. 25, 1986, D.C. Law 6-99, § 212, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(f), 34 DCR 3789.)

Prior Codifications. — 1981 Ed., § 2-3302.12.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-31. — For legislative history of D.C. Law 7-31, see Historical and Statutory Notes following § 3-1202.01.

§ 3-1202.13. Board of Professional Counseling.

(a) There is established a Board of Professional Counseling to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practices of professional counseling and addiction counseling.

(c) Members of the Board shall serve a 3-year term. Of the members first appointed to the Board, 1 member shall be appointed to a 1-year term, 2 members shall be appointed to a 2-year term, and 2 members shall be appointed to a 3-year term.

(d) Of the members of the Board, 3 shall be professional counselors licensed in the District, 1 shall be an educator engaged in teaching counseling, one shall be a consumer member, and one shall have at least 5 years of experience in the field of addiction counseling.

(Mar. 25, 1986, D.C. Law 6-99, § 213, as added July 22, 1992, D.C. Law 9-126, § 2(d), 39 DCR 3824; July 7, 2009, D.C. Law 18-13, § 2(c), 56 DCR 3608.)

Prior Codifications. — 1981 Ed., § 2-3302.13.

Effect of amendments. — D.C. Law 18-13 rewrote subsec. (b); and, in subsec. (d), substituted “one shall be a consumer member, and one shall have at least 5 years of experience in the field of addiction counseling” for “and 1 shall be a consumer member”. Prior to amendment, subsec. (b) read as follows: “(b) The Board shall regulate the practice of professional counseling.”

Legislative history of Law 9-126. — Law 9-126, the “District of Columbia Health Occu-

pations Revision Act of 1985 Professional Counselors Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-197, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-210 and transmitted to both Houses of Congress for its review. D.C. Law 9-126 became effective on July 22, 1992.

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.02.

§ 3-1202.14. Board of Respiratory Care.

(a) There is established a Board of Respiratory Care to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of respiratory therapy.

(c) Of the members of the Board, 3 shall be respiratory therapists licensed in the District; 1 shall be a physician with knowledge and experience in the practice of respiratory care; and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are

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sworn in, which shall become the anniversary date for all subsequent appointments.

(Mar. 25, 1986, D.C. Law 6-99, § 214, as added Mar. 14, 1995, D.C. Law 10-203, § 2(c), 41 DCR 7707.)

Prior Codifications. — 1981 Ed., § 2-3302.14. legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.
Legislative history of Law 10-203. — For

§ 3-1202.15. Board of Massage Therapy.

(a) There is established a Board of Massage Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of massage therapy.

(c) Of the members of the Board, 4 shall be massage therapists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for the term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(Mar. 25, 1986, D.C. Law 6-99, § 215, as added Mar. 14, 1995, D.C. Law 10-205, § 2(b), 41 DCR 7712.)

Prior Codifications. — 1981 Ed., § 2-3302.15. legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.
Legislative history of Law 10-205. — For

§ 3-1202.16. Board of Chiropractic.

(a) There is established a Board of Chiropractic to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of chiropractic.

(c) Of the members of the Board, 3 shall be doctors of chiropractic licensed to practice in the District, 1 shall be the Director of the Department of Health or his or her designee, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) The members of the Advisory Committee on Chiropractic abolished by the Chiropractic Licensing Amendment Act of 1994 shall continue to serve as members of the Board of Chiropractic established by this section until the expiration of their terms on the Advisory Committee or until successors are appointed, whichever occurs later, and may be reappointed.

(Mar. 25, 1986, D.C. Law 6-99, § 216, as added Mar. 21, 1995, D.C. Law

10-231, § 2(d), 42 DCR 15; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; Mar. 6, 2007, D.C. Law 16-228, § 2(d), 53 DCR 10244.)

Prior Codifications. — 1981 Ed., § 2-3302.16.

Effect of amendments. — D.C. Law 16-228, in subsec. (c), substituted “Director of the Department of Health” for “Commissioner of Public Health”.

Legislative history of Law 10-231. — For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — For

legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

References in text. — The reference in (e) to the “Chiropractic Licensing Amendment Act of 1994” refers to D.C. Law 10-231.

The Advisory Committee on Chiropractic, referred to in (e), was abolished by § 2(c)(5) of D.C. Law 10-231.

§ 3-1202.17. Board of Marriage and Family Therapy.

(a) There is established a Board of Marriage and Family Therapy, which shall consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of marriage and family therapy.

(c) Of the members of the Board, 4 shall be marriage and family therapists licensed in the District and one shall be a consumer member with no direct affiliation with the practice of marriage and family therapy of another mental health profession. The professional members shall have:

(1) For at least 3 years preceding the appointment, been actively engaged in rendering professional services in marriage and family therapy as marriage and family therapists, the education and training of master’s, doctoral, or post-doctoral students of marriage and family therapy, or marriage and family therapy research; and

(2) For the 2 years preceding the appointment, spent the majority of their time devoted to one of the activities described in paragraph (1) of this subsection.

(d) The Mayor shall designate one Board member to serve as chairperson during the term of his or her appointment to the Board. No person may serve as chairperson for more than 4 years.

(e) Except as provided in subsection (f) of this section, members of the Board shall be appointed for terms of 3 years.

(f) Of the members initially appointed under this section, 3 shall be appointed for a term of 3 years, and 2, including the chairperson, shall be appointed for a term of 4 years.

(Mar. 25, 1986, D.C. Law 6-99, § 217, as added Mar. 10, 2004, D.C. Law 15-88, § 2(d), 50 DCR 10999.)

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

§ 3-1202.18. Board of Audiology and Speech-Language Pathology.

(a) There is established a Board of Audiology and Speech-Language Pathology, which shall consist of 7 members appointed by the Mayor.

(b) The Board shall regulate the practice of audiology and speech-language pathology.

(c) The Board shall administer the examination required for audiology and speech-language pathology licenses.

(d) Of the members of the Board, 2 shall be practicing audiologists, 2 shall be practicing speech-language pathologists, one shall be a practicing Otolaryngologist, and 2 shall be consumer members with no direct affiliation with either the practice of audiology or the practice of speech-language pathology or other health profession. The professional members shall:

(1) For audiology, at least 3 years preceding appointment, have been actively engaged as an audiologist in rendering professional services in audiology or in the education and training of masters, doctoral, or postdoctoral students of audiology in audiology research, and for the 2 years preceding the appointment, have spent the majority of their time devoted to one of the activities listed in this paragraph.

(2) For speech pathology, at least 3 years preceding the appointment, have been actively engaged as a speech-pathologist in rendering professional services in speech pathology or in the education and training of masters, doctoral, or postdoctoral students of speech pathology in speech-pathology research, and for the 2 years preceding the appointment, have spent the majority of their time devoted to one of the activities listed in this paragraph.

(3) For otolaryngology, at least 3 years preceding the appointment, have been actively engaged as an otolaryngologist in rendering professional services in otolaryngology or in the education and training of masters, doctoral, or postdoctoral students of otolaryngology in otolaryngology research, and for the 2 years preceding the appointment have spent the majority of their time devoted to one of the activities listed in this paragraph.

(e) Except as provided in subsection (g) of this section, members of the Board shall be appointed for terms of 4 years. No person may be appointed more than once to fill an unexpired term or more than 2 consecutive full terms.

(f) The initial appointees, with the exception of the representatives of the general public and the Otolaryngologist, shall be deemed to be and shall become licensed audiologists and speech-language pathologists immediately upon their qualification and appointment as members of the Board.

(g) Of the members initially appointed, 2 shall be appointed for 2 years, 2 shall be appointed for 3 years, and 3 members, including the chairperson, shall be appointed for 4 years.

(h) The Mayor shall designate one Board member to serve as chairperson during the term of his or her appointment to the Board. No person may serve as chairperson for more than 4 years.

(Mar. 25, 1986, D.C. Law 6-99, § 218, as added Mar. 6, 2007, D.C. Law 16-219, § 2(d), 53 DCR 10211.)

Legislative history of Law 16-219. — For Law 16-219, see notes following § 3-1201.01.

§ 3-1202.19. Boards of Allied Health executive director.

The Mayor shall appoint an executive director, who shall be a full-time employee of the District, to implement and administer the orders of the Boards of Allied Health in accordance with this chapter and rules and regulations issued pursuant to this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 219, as added July 18, 2009, D.C. Law 18-26, § 2(c), 56 DCR 4043.)

Emergency legislation. — For temporary (90 day) addition, see § 2(c) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1202.20. Boards of Behavioral Health executive director.

The Mayor shall appoint an executive director, who shall be a full-time employee of the District, to implement and administer the orders of the Boards of Behavioral Health in accordance with this chapter and rules and regulations issued pursuant to this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 220, as added July 18, 2009, D.C. Law 18-26, § 2(c), 56 DCR 4043.)

Emergency legislation. — For temporary (90 day) addition, see § 2(c) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

Subchapter III. Administration.

§ 3-1203.01. Administration.

The boards established by this chapter shall be under the administrative control of the Mayor.

(Mar. 25, 1986, D.C. Law 6-99, § 301, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3303.1.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1203.02. Responsibilities of Mayor.

The Mayor shall be responsible for:

- (1) Planning, developing, and maintaining procedures to ensure that the

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boards receive administrative support, including staff and facilities, sufficient to enable them to perform their responsibilities;

(2) Processing and providing licenses as required and approved by the boards;

(3) Providing investigative and inspection services;

(4) Holding hearings on cases pursuant to guidelines established in § 3-1205.19 when requested to do so by the board, and appointing hearing officers to enable the boards to hold hearings;

(5) Furnishing expert services in noncompliance cases brought in an administrative or court proceeding;

(6) Providing budgetary and personnel services;

(7) Maintaining central files of records pertaining to licensure, inspections, investigations, and other matters requested by the boards;

(8) Furnishing facilities and staff for hearings and other proceedings;

(9) Providing information to the public concerning licensing requirements and procedures;

(10) Publishing and distributing procedural manuals concerning licensing and inspections and other materials prepared by the boards;

(11) Assisting, supplying, furnishing, and performing other administrative, clerical, and technical support the Mayor determines is necessary or appropriate;

(12) Issuing rules, as the Mayor may periodically determine to be necessary to protect the health and welfare of the citizens of the District, for the temporary licensure for a fixed period of time not to exceed 90 days and under conditions to be prescribed by the Mayor by rule, of applicants for licensure to practice a health occupation in the District, except the Mayor may provide for the issuance of temporary licenses to applicants for licensure to practice social work and marriage and family therapy for a period not to exceed 1 year, and to applicants for licensure to practice as anesthesiologist assistants for a period not to exceed 2 years;

(13) Making necessary rules relating to the administrative procedures of the boards; and

(14) Issuing all rules necessary to implement the provisions of this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 302, 33 DCR 729; Oct. 1, 1992, D.C. Law 9-165, § 2, 39 DCR 5817; Mar. 10, 2004, D.C. Law 15-88, § 2(e), 50 DCR 10999; Mar. 16, 2005, D.C. Law 15-237, § 2(d), 51 DCR 10593; Mar. 2, 2007, D.C. Law 16-191, § 17(b), 53 DCR 6794.)

Prior Codifications. — 1981 Ed., § 2-3303.2.

Effect of amendments. — D.C. Law 15-88, in par. (12), substituted “social work and marriage and family therapy” for “social work”.

D.C. Law 15-237, in par. (12), substituted “to exceed 1 year, and to applicants for licensure to practice as anesthesiologist assistants for a period not to exceed 2 years;” for “exceeding 1 year;”.

D.C. Law 16-191, in par. (12), validated a previously made technical correction.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992 (D.C. Law 9-92, April 8, 1992, law notification 39 DCR 2858).

Emergency legislation. — For temporary

amendment of section, see § 2 of the District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Emergency Amendment Act of 1992 (D.C. Act 9-148, January 28, 1992, 39 DCR 714). Section 3 of D.C. Act 9-148 provided that any 90-day temporary licenses to practice social work issued prior to January 28, 1992, shall be extended automatically for a period of 1 year from the date the license was issued, subject to any conditions prescribed by the mayor pursuant to § 302(12) of the act.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-165. — Law 9-165, the “District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-370, which was referred to the Committee on Consumer and Regulatory Affairs.

The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-263 and transmitted to both Houses of Congress for its review. D.C. Law 9-165 became effective on October 1, 1992.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1201.02.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 3-326.

Delegation of Authority. — Delegation of authority pursuant to the “District of Columbia Health Occupations Revision Act of 1985”, see Mayor’s Order 98-140, August 20, 1998 (45 DCR 6593).

Editor’s notes. — District of Columbia Nursing Home Advisory Commission established: See Mayor’s Order 88-60, March 15, 1988.

Subchapter IV. General Provisions Relating to Health Occupation Boards.

§ 3-1204.01. Qualifications of members.

(a) The members of each board shall be residents of the District at the time of their appointments and while they are members of the board.

(b)(1) Each professional member of a board, in addition to the requirements of subsection (a) of this section, shall have been engaged in the practice of the health occupation regulated by the board for at least 3 years preceding appointment.

(2) The dietitian and nutritionist members initially appointed to the Board of Dietetics and Nutrition, the nonphysician acupuncturist member initially appointed to the Advisory Committee on Acupuncture, the anesthesiologist assistant member initially appointed to the Advisory Committee on Anesthesiologist Assistants, the physician assistant member initially appointed to the Advisory Committee on Physician Assistants, the polysomnographic technologist members initially appointed to the Advisory Committee on Polysomnography, the surgical assistant member initially appointed to the Advisory Committee on Surgical Assistants, the respiratory care members initially appointed to the Board of Respiratory Care, the social worker members initially appointed to the Board of Social Work, the professional counselor members initially appointed to the Board of Professional Counseling, the audiologist and speech-language pathologist members initially appointed to the Board, the naturopathic physician member initially appointed to the Advisory Committee on Naturopathic Medicine, marriage and family therapist members initially appointed to the Board of Marriage and Family Therapy, and the massage therapy members initially appointed to the Board of Massage Therapy shall be eligible for and shall file a timely application for licensure in the District. The advanced registered nurse

members initially appointed to the Board of Nursing shall be licensed in the District as registered nurses, shall meet the qualifications of this chapter to practice their respective specialties, shall have practiced their respective specialties for at least 3 years preceding appointment, and shall file a timely application for certification to practice their respective specialties.

(c) Each consumer member of a board, in addition to the requirements of subsection (a) of this section, shall:

- (1) Be at least 18 years old;
- (2) Not be a health professional or in training to become a health professional;
- (3) Not have a household member who is a health professional or is in training to become a health professional; and
- (4) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to health professionals or health-care facilities.

(d) Within the meaning of subsection (c) of this section, the term "household member" means a relative, by blood, marriage, or domestic partnership, or a ward of an individual who shares the individual's actual residence.

(e) The office of a member of a board or advisory committee shall be forfeited upon the member's failure to maintain the qualifications required by this chapter.

(f) Each professional member of a board or advisory committee shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of a health occupation.

(Mar. 25, 1986, D.C. Law 6-99, § 401, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(e), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(d), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(c), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; March 10, 2004, D.C. Law 15-88, § 2(f), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(d), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(e), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-219, § 2(e), 53 DCR 10211; Mar. 6, 2007, D.C. Law 16-228, § 2(e), 53 DCR 10244; Sept. 12, 2008, D.C. Law 17-231, § 10(b), 55 DCR 6758; July 7, 2009, D.C. Law 18-12, § 2(c), 56 DCR 3605.)

Prior Codifications. — 1981 Ed., § 2-3304.1.

Effect of amendments. — D.C. Law 15-88, in subsec. (b)(2), inserted "marriage and family therapist members initially appointed to the Board of Marriage and Family Therapy," after "Board of Professional Counseling".

D.C. Law 15-172, in par. (2) of subsec. (b), substituted "Counseling, the naturopathic physician member initially appointed to the Advisory Committee on Naturopathic Medicine," for "Counseling".

D.C. Law 15-237, in par. (2) of subsec. (b), inserted "the anesthesiologist assistant member initially appointed to the Advisory Committee on Anesthesiologist Assistants,".

D.C. Law 16-219, in subsec. (b)(2), substituted "appointed to the Board of Professional Counseling, the audiologist and speech-language pathologist members initially appointed to the Board" for "appointed to the Board of Professional Counseling".

D.C. Law 16-228, in subsec. (b)(2), inserted "the surgical assistant member initially appointed to the Advisory Committee on Surgical Assistants" following "the Advisory Committee on Physician Assistants,".

D.C. Law 17-231, in subsec. (d), substituted "by blood, marriage, or domestic partnership" for "by blood or marriage".

D.C. Law 18-12, in subsec. (b)(2), substituted "Physician Assistants, the polysomnographic

technologist members initially appointed to the Advisory Committee on Polysomnography, the surgical" for "Physician Assistants, the surgical".

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1201.02.

Legislative history of Law 16-219. — For Law 16-219, see notes following § 3-1201.01.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

Legislative history of Law 18-12. — For Law 18-12, see notes following § 3-1201.02.

§ 3-1204.02. Terms of members; filling of vacancies.

(a) The terms of members of a board or advisory committee, after the initial terms, shall expire on the 3rd anniversary of the date the 1st members constituting a quorum take the oath of office.

(b) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(c) A vacancy on a board or advisory committee shall be filled in the same manner as the original appointment was made.

(d) A member appointed to fill a vacancy shall serve only until the expiration of the term or until a successor is appointed and sworn into office.

(Mar. 25, 1986, D.C. Law 6-99, § 402, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.2.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1204.03. Limitation on consecutive terms.

No member of a board or advisory committee shall be appointed to serve more than 3 full consecutive 3-year terms; provided, that the Mayor may appoint a member of a board to serve more than 3 full terms if considered necessary.

(Mar. 25, 1986, D.C. Law 6-99, § 403, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(d)(1), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3304.3.

Effect of amendments. — D.C. Law 18-26 substituted "terms; provided, that the Mayor may appoint a member of a board to serve more than 3 full terms if considered necessary" for "terms".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d)(1) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Histor-

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ical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1204.04. Removal.

(a) The Mayor may remove a member of a board or advisory committee for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of a board or advisory committee to attend at least ½ of the regular, scheduled meetings of the board or advisory committee within a 12-month period shall constitute neglect of duty within the meaning of subsection (a) of this section.

(Mar. 25, 1986, D.C. Law 6-99, § 404, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.4. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1204.05. Officers; meetings; quorum.

(a) From among the members of each board and advisory committee, the Mayor shall designate a chairperson.

(b) Each board and advisory committee shall determine the times and places of its meetings and shall publish notice of regular meetings at least 1 week in advance in the District of Columbia Register.

(c) A majority of the appointed members of each board and advisory committee shall constitute a quorum.

(d) An affirmative vote of a majority of a quorum shall be required to approve a measure before a board.

(Mar. 25, 1986, D.C. Law 6-99, § 405, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(d)(2), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3304.5. ment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Effect of amendments. — D.C. Law 18-26, in subsec. (c), substituted “appointed members” for “members”; and added subsec. (d).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d)(2) of Health Occupations Revision General Amend-

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1204.06. Compensation.

Members of each board and advisory committee shall be entitled to receive compensation in accordance with § 1-611.08, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties.

(Mar. 25, 1986, D.C. Law 6-99, § 406, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.6.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1204.07. Staff.

For each board, the Mayor may set the compensation of personnel he or she deems advisable, subject to available appropriations, in accordance with Chapter 6 of Title 1.

(Mar. 25, 1986, D.C. Law 6-99, § 407, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.7.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1204.08. General powers and duties.

Each board shall:

(1) Administer and enforce the provisions of this chapter, and rules and regulations issued pursuant to this chapter, related to the health occupation regulated by the board;

(2) Evaluate the qualifications and supervise the examinations of applicants for licenses, either personally or through the use of consultant services;

(3) Make recommendations to the Mayor, upon request by the Mayor or when the board determines it necessary, for standards and procedures to be used in determining the acceptability of foreign education and training programs as substantially equivalent to the requirements of this chapter;

(4) Issue licenses to qualified applicants;

(5) Issue subpoenas, examine witnesses, and administer oaths;

(6) Receive and review complaints of violations of this chapter or rules and regulations issued pursuant to this chapter;

(7) Request the Mayor, on its own initiative or on the basis of a complaint, to conduct investigations of allegations of practices violating the provisions of this chapter with respect to the health occupation regulated by the board; and

(8) Conduct hearings and keep records and minutes necessary to carry out its functions.

(9) Issue advisory opinions regarding compliance with acceptable standards of practice.

(Mar. 25, 1986, D.C. Law 6-99, § 408, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(g), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3304.8.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.
Equal protection.
In general.
Licensure by endorsement.

Due process.

Access to entire profession is "liberty interest" that cannot be denied without due process of law. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Procedural due process rights of physician who was denied license by District of Columbia Board of Medicine were not violated; physician was afforded notice with reasons, full hearing with opportunity to confront witnesses and rebut evidence, further opportunity to submit findings, and opportunity for judicial review. U.S. Const.Amend. 14; D.C. Code 1981, §§ 1-1501 et seq., 1-1509, 2-3301.1 et seq., 2-3305.19(c). *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Evidence supported District of Columbia Board of Medicine's refusal for three years to license physician, and thus, that refusal did not violate his due process rights; while his application met express statutory requirements for licensure, his employment record, including three failed residencies and extended interim between medical school and his completion of residency, justified Board's concern as to his medical preparedness and ability to handle stress of medical practice. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Due process rights of physician who applied for licensure in District of Columbia (D.C.) were not violated by D.C. Board of Medicine's consideration of criteria not required by D.C. Code; rule promulgated after physician filed his application allowed Board to determine whether applicant "possesses the appropriate skills, knowledge, judgment, and character to practice medicine." D.C. Code 1981, §§ 2-3305.3, 2-3305.4; U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

In denying physician's application for license, District of Columbia (D.C.) Board of Medicine's reliance on rule promulgated nearly one year after physician filed his application and nearly three months after physician's hearing did not violate physician's due process rights; physician had notice of pending rule and full opportunity to address its requirements in his posthearing submissions to Board, and various

papers he filed asserted his right to waiver of examination requirement based on related rule promulgated at same time. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Equal protection.

District of Columbia Board of Medicine's refusal for three years to license physician to practice medicine was rationally related to legitimate state interest in promoting public health, and thus, did not violate equal protection; while his application met express statutory requirements for licensure, his employment record, including three failed residencies, and extended interim between medical school and his completion of residency, justified Board's concern as to his medical preparedness and ability to handle stress of medical practice. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

For equal protection purposes, denial of license to practice medicine, or any other professional occupation, does not implicate "fundamental constitutional right." *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

In general.

As statutory creation, District of Columbia Board of Medicine cannot exceed powers given it by statute. D.C. Code 1981, § 2-3301.1 et seq. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Judicial deference to District of Columbia Board of Medicine's interpretation of Health Occupations Revision Act and rules is appropriate in matters of licensing, which demand expertise and informed discretion; thus, Board's interpretation is to be considered binding unless it conflicts with plain meaning of statute or its legislative history. D.C. Code 1981, § 2-3301.1 et seq. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Licensure by endorsement.

Under District of Columbia (D.C.) Health Occupations Revision Act, D.C. Board of Medicine properly denied physician's application for licensure by endorsement only; although physician held license in New York, New York did not require completion of year-long residency for licensure, and physician had not completed his residency when he received New York license. D.C. Code 1981, §§ 2-3305.3, 2-3305.4, 2-3305.7. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

§ 3-1204.09. Fees.

(a) Except as provided in subsection (b) of this section, the Mayor is authorized to establish a fee schedule for all services related to the regulation of all health occupations under this chapter, in accordance with the requirements of District law.

(b)(1) The fee for the issuance of a medical license shall be set by the Board of Medicine; provided, that the fee shall be no less than \$500 and shall be sufficient to fund the programmatic needs of the Board.

(2) The fee for the issuance of a license to practice pharmaceutical detailing shall be set by the Board of Pharmacy.

(3) The fee for the issuance of a license to practice by a physician-in-training, if any, shall be determined by the Board of Medicine.

(Mar. 25, 1986, D.C. Law 6-99, § 409, 33 DCR 729; Mar. 14, 2007, D.C. Law 16-263, § 201(b), 54 DCR 807; Mar. 26, 2008, D.C. Law 17-131, § 102(d), 55 DCR 1659; Mar. 14, 2012, D.C. Law 19-104, § 2(c), 59 DCR 435.)

Prior Codifications. — 1981 Ed., § 2-3304.9.

Effect of amendments. — D.C. Law 16-263 inserted “; provided, that the fee for the issuance of a medical license shall be set by the Board of Medicine; provided further, that the fee shall be no less than \$500 and shall be sufficient to fund the programmatic needs of the Board”.

D.C. Law 17-131 rewrote the section, which had read as follows: “The Mayor is authorized to establish a fee schedule for all services related to the regulation of all health occupations under this chapter, in accordance with the requirements of District law; provided, that the fee for the issuance of a medical license shall be

set by the Board of Medicine; provided further, that the fee shall be no less than \$500 and shall be sufficient to fund the programmatic needs of the Board.”

D.C. Law 19-104 added subsec. (b)(3).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 16-263. — For Law 16-263, see notes following § 3-1202.03.

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1201.02.

Legislative history of Law 19-104. — For history of Law 19-104, see notes under § 3-1201.02.

§ 3-1204.10. Disposition of funds.

All fees, civil fines, and other funds collected pursuant to this chapter shall be deposited to the General Fund of the District.

(Mar. 25, 1986, D.C. Law 6-99, § 410, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.10.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1204.11. Annual report.

Each board shall, before January 1 of each year, submit a report to the Mayor and the Council of its official acts during the preceding fiscal year.

(Mar. 25, 1986, D.C. Law 6-99, § 411, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3304.11. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

Subchapter V. Licensing, Registration, or Certification of Health Professionals.

§ 3-1205.01. License, registration, or certification required.

(a) A license issued pursuant to this chapter is required to practice medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, marriage and family therapy, massage therapy, naturopathic medicine, nutrition, nursing home administration, occupational therapy, optometry, pharmaceutical detailing, pharmacy, physical therapy, podiatry, psychology, social work, professional counseling, audiology, speech-language pathology, respiratory care, advanced practice addiction counseling, or to practice as an anesthesiologist assistant, physician assistant, physical therapy assistant, polysomnographic technologist, occupational therapy assistant, or surgical assistant in the District, except as otherwise provided in this chapter. Registration is required to practice as nursing assistive personnel, or as a psychology associate, polysomnographic technician or trainee, or dental assistant. Certification is required to practice as an addiction counselor I, or an addiction counselor II, and to practice advanced practice registered nursing.

(b) A license, registration, or certification is the property of the District of Columbia and shall be surrendered on demand of the licenser.

(Mar. 25, 1986, D.C. Law 6-99, § 501, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(f), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(e), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(d), 41 DCR 7712; Mar. 23, 1995, D.C. Law 10-247, § 2(h), 42 DCR 457; Mar. 10, 2004, D.C. Law 15-88, § 2(g), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(e), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(f), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-219, § 2(f), 53 DCR 10211; Mar. 6, 2007, D.C. Law 16-220, § 2(c), 53 DCR 10216; Mar. 6, 2007, D.C. Law 16-228, § 2(f), 53 DCR 10244; Mar. 26, 2008, D.C. Law 17-131, § 102(e), 55 DCR 1659; July 18, 2009, D.C. Law 18-26, § 2(e)(2), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.1.

Effect of amendments. — D.C. Law 15-88 inserted “marriage and family therapy,” after “dietetics.”

D.C. Law 15-172 substituted “massage therapy, naturopathic medicine,” for “massage therapy.”

D.C. Law 15-237 substituted “an anesthesiologist assistant, physician assistant, or occupational therapy assistant” for “a physician assistant or occupational therapy assistant”.

D.C. Law 16-219 inserted “audiology, speech-language pathology,”.

D.C. Law 16-220, inserted “physical therapy assistant,” following “physician assistant,”.

D.C. Law 16-228, inserted “or surgical assistant” following “occupational therapy assistant,”.

D.C. Law 17-131 substituted “pharmaceutical detailing, pharmacy” for “pharmacy”.

D.C. Law 18-26 rewrote the section, which had read as follows: “A license issued pursuant to this chapter is required to practice medicine,

acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, marriage and family therapy, massage therapy, naturopathic medicine, nutrition, nursing home administration, occupational therapy, optometry, pharmaceutical detailing, pharmacy, physical therapy, podiatry, psychology, social work, professional counseling, audiology, speech-language pathology, and respiratory care or to practice as an anesthesiologist assistant, physician assistant, physical therapy assistant, occupational therapy assistant, or surgical assistant in the District, except as provided in this chapter. A certification issued pursuant to this chapter is required to practice advanced practice registered nursing."

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(2) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1201.02.

Legislative history of Law 16-219. — For Law 16-219, see notes following § 3-1201.01.

Legislative history of Law 16-220. — For Law 16-220, see notes following § 3-1201.02.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1201.02.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

In general.

Podiatry.

Purpose.

Weight and sufficiency of evidence.

In general.

"Practicing medicine," within license statute, held to include application and use of drugs to cure or alleviate disease, but not practice of "massage." Act June 3, 1896, c. 313, §§ 12, 13, 29 Stat. 201. *Rubin v. U.S.*, 37 F.2d 991, 1930 U.S. App. LEXIS 2672 (1930).

Under the act of Congress of February 1, 1907, c. 442, 34 Stat. 870 (D.C. Code 1929, T. 20, §§ 171-182), to regulate the practice of veterinary medicine in this District, and requiring any one desiring to so practice to apply for a license, and providing that a record shall be kept by the board of examiners thereby created, showing whether a license has been issued as a result of any application to practice, and that no one shall practice, or hold himself out as practicing, veterinary medicine without conspicuously displaying such a license in his office, any person who engages in such practice without a license is guilty of a violation of the act, although the act itself does not in express terms prohibit such practice. *District of Columbia v. Dewalt*, 31 App.D.C. 326, 1908 U.S. App. LEXIS 5627 (1908).

An individual may contract with a physician for medical services for a stipulated period at fixed compensation without violating statute prohibiting the practice of healing art otherwise than in accordance with terms of license or registration. D.C. Code 1929, T. 5, § 121 et seq.; T. 20, §§ 121, 122. *Group Health Ass'n v. Moor*, 24 F.Supp. 445, 1938 U.S. Dist. LEXIS 1961 (D.D.C.1938).

Even if trial court improperly concluded, in medical malpractice action brought against District of Columbia by mother of prisoner who died from asthma attack while serving sentence as youthful offender, that statute requiring a license to practice medicine or to serve as a physician assistant in the District applied to juvenile detention center that was not geographically located in the District, any error was harmless, since jurors were apprised of other Department of Corrections guidelines that prohibited unlicensed foreign medical graduates from providing direct patient care and court orders prohibiting the use of unlicensed physician assistants at District correctional facilities. D.C. Code 1981, § 2-3305.1. *District of Columbia v. Wilson*, 721 A.2d 591, 1998 D.C. App. LEXIS 230 (1998).

"Treatment," for purposes of statute defining "practice of medicine," is not so broad as to include conduct that merely affects, influences, or substantially impacts course of care by oth-

ers; equating "treatment" with any conduct that "practically affects" it, in ways potentially involving no exercise of medical judgment, is contrary to any sensible interpretation of statute. D.C. Code 1981, § 2-3301.2(7). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

Physician employed as vice president and medical director of insurance company was not engaged in "practice of medicine," so as to require license, even though he signed letters containing committee recommendations as "M.D.," he bore title of "Medical Director," and company desired physician in his position because "there would be a significant amount of interaction with health care providers" and "physicians are generally more prone to listen to other physicians"; duties and responsibilities of physician's position were exclusively administrative. D.C. Code 1981, § 2-3301.2(7). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

Letters from physician to Board of Medicine in which physician, who was not licensed in District of Columbia, attached "M.D." to his name and title did not establish that physician was representing that he practiced medicine or was authorized to practice health occupation, as would have violated statutory prohibitions; letters were relaying results of peer investigations and evaluations by licensed medical consultants to insurance company which employed physician, and did not reasonably support finding that physician meant to endorse recommendations of consultants as representing his own diagnosis of questioned conduct. D.C. Code 1981, §§ 2-3310.2, 2-3310.3(g). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

Physician who permitted qualified paramedic to examine and treat patients without consultation and with minimal supervision and to fill out and distribute drug prescriptions which had been presigned, and who did not require that paramedic seek his approval before prescribing drug was able to reasonably comprehend that his conduct was not accepted use of qualified paramedical personnel and thus was not exempt from statutory prohibition against aiding and abetting another in practice of healing art without a license. D.C. Code 1973, §§ 2-102, 22-105. *Jacobs v. United States*, 436 A.2d 1286, 1981 D.C. App. LEXIS 390 (1981).

District of Columbia's healing arts practice statute permits separate prosecution of isolated acts of treatment. D.C. Code 1961, §§ 2-101 et seq., 2-301 et seq., 2-401 et seq., 2-501 et seq., 2-601 et seq., 2-701 et seq., 2-801 et seq. *Baldwin v. District of Columbia*, 183 A.2d 566, 1962 D.C. App. LEXIS 321 (Cr.App. 1962).

Transaction by which defendant, who was not licensed under the Healing Arts Practice Act and who was not acting under direction of a

licensee, agreed, for a price, to give plaintiff treatments for arthritis, consisting of massaging and rubbing in of an ointment, constituted an illegal "practice of the healing arts". D.C. Code 1940, § 2-101 et seq. *Rubin v. Douglas*, 59 A.2d 690, 1948 D.C. App. LEXIS 154 (Cr.App. 1948).

Podiatry.

The science of osteopathy has become sufficiently established to justify the classification of its practitioners within the exception of the regular practicing physicians from Act May 23, 1918 (D.C. Code 1929, T. 20, § 995), making it unlawful for any person, except regular practicing physicians, to practice podiatry without having passed an examination, and, even if not, an osteopath, who had practiced since 1909, would be within the exception of those who had practiced podiatry during the past year. *Howerton v. District of Columbia*, 289 F. 628, 1923 U.S. App. LEXIS 2020 (1923).

Act May 23, 1918 (D.C. Code 1929, T. 20, § 995), making it unlawful to practice podiatry in the District without having passed an examination, and defining "podiatry" as the surgical, medical, and mechanical treatment of any ailment of the human foot, except amputation, was not intended to interfere with the general practice of any recognized branch of medical science. *Howerton v. District of Columbia*, 289 F. 628, 1923 U.S. App. LEXIS 2020 (1923).

Podiatry statute was enacted to protect public by assuring that those who hold themselves out as podiatrists have attained specified level of professional competence and one who fails to submit himself to scrutiny of Board of Podiatry Examiners must be considered unfit to practice podiatry, regardless of his claimed qualifications. D.C. Code 1961, § 2-701 et seq. *Baldwin v. District of Columbia*, 183 A.2d 566, 1962 D.C. App. LEXIS 321 (Cr.App. 1962).

Purpose.

The purpose of the statute prohibiting the practice of the healing art in the District of Columbia otherwise than in accordance with terms of license or registration was to protect the public from quacks and from the ignorant and incompetent. D.C. Code 1929, T. 5, § 121 et seq.; T. 20, §§ 121, 122. *Group Health Ass'n v. Moor*, 24 F.Supp. 445, 1938 U.S. Dist. LEXIS 1961 (D.D.C.1938).

Weight and sufficiency of evidence.

Evidence held insufficient to sustain conviction for "practicing medicine" without license of one merely applying or rubbing substance over body. Act June 3, 1896, c. 313, §§ 12, 13, 29 Stat. 201. *Rubin v. U.S.*, 37 F.2d 991, 1930 U.S. App. LEXIS 2672 (1930).

That accused made statement as to efficacy of his particular kind of massaging held not to establish "practicing medicine" without license.

Act June 3, 1896, c. 313, §§ 12, 13, 29 Stat. 201.
 Rubin v. U.S., 37 F.2d 991, 1930 U.S. App.
 LEXIS 2672 (1930).

§ 3-1205.02. Exemptions.

(a) The provisions of this chapter prohibiting the practice of a health occupation without a District of Columbia license, registration, or certification shall not apply:

(1) To an individual who administers treatment or provides advice in any case of emergency;

(2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;

(3) To an individual, licensed, registered, or certified to practice a health occupation in a state, who is providing care to an individual or group for a limited period of time, or who is called from a state in professional consultation by or on behalf of a specific patient or client to visit, examine, treat, or advise the specific patient or client in the District, or to give a demonstration of a procedure or clinic in the District; provided, that the individual engages in the provision of care, consultation, demonstration, or clinic in affiliation with a comparable health professional licensed, registered, or certified pursuant to this chapter;

(3A) To an individual retained to testify as an expert witness in any court or administrative proceeding, hearing, or trial;

(4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:

(A) The health professional does not have an office or other regularly appointed place in the District to meet patients;

(B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and

(C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this section.

(b) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of subsection (a)(4) of this section, a health professional practicing in the District pursuant to subsection (a)(4) of this section shall not see patients or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 502, 33 DCR 729; Mar. 25, 2009, D.C. Law 17-353, § 188(b), 56 DCR 1117; July 18, 2009, D.C. Law 18-26, § 2(e)(3), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.2.

Effect of amendments. — D.C. Law 17-353 designated the existing language as subsec. (a); in subsec. (a)(4)(C), substituted “this section”

for “this subsection”; redesignated subsec. (a)(4)(D) as subsec. (b); and, in subsec. (b), substituted “subparagraphs (A), (B), and (C) of subsection (a)(4) of this section” for “subparagraphs (A), (B), and (C) of this paragraph” and

§ 3-1205.03 DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

substituted “ subsection (a)(4) of this section shall” for “this paragraph shall”.

D.C. Law 18-26, in subsec. (a), rewrote the lead-in language and par. (3); and added par. (3)(A).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(3) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

In general.

Psychiatrist, who was licensed in Michigan and who applied for license in District of Columbia based on reciprocity or endorsement, had no vested interest in practice in District of Columbia, and thus, had no constitutionally protected interest in licensure in District which entitled her to more searching review of her qualifications beyond her federation-certified score from FLEX examination which she took in Michigan in 1970. D.C. Code 1981, §§ 2-3301.1 to 2-3312.1, 2-3305.6(e)(1), 2-3305.7(1); U.S.C. Const.Amend. 5. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine's consideration, in psychiatrist's application for license by endorsement or reciprocity, of circumstances at time of original licensure and not intervening experience

or accomplishments was not irrational in light of difficulty in assessing experience or accomplishments as objective measurement of qualification. D.C. Code 1981, § 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine's interpretation of “substantial equivalency” requirements of statute, governing applications for medical license by reciprocity or endorsement, to require strict conformity with minimum passing grade on FLEX examination of 75 was not unreasonable in light of Board's broad discretion in administering waiver and endorsement provisions and Board's determination that FLEX examination provided objective measure of qualifications. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

§ 3-1205.03. General qualifications of applicants.

(a) An individual applying for a license under this chapter shall establish to the satisfaction of the board regulating the health occupation that the individual:

(1) Has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;

(2) Is at least 18 years of age;

(3) Has successfully completed the additional requirements set forth in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter, as applicable;

(4) Has passed an examination, administered by the board or recognized by the Mayor pursuant to § 3-1205.06, to practice the health occupation; and

(5) Meets any other requirements established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupation.

(b) The board may grant a license to an applicant whose education and training in the health occupation has been successfully completed in a foreign school, college, university, or training program if the applicant otherwise qualifies for licensure and if the board determines, in accordance with rules issued by the Mayor, that the education and training are substantially equivalent to the requirements of this chapter in assuring that the applicant

has the proper training, experience, and qualifications to practice the health occupation.

(c) The board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state if the basis of the license revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another state.

(d) The references in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the Mayor that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 503, 33 DCR 729; Mar. 10, 2004, D.C. Law 15-88, § 2(h), 50 DCR 10999.)

Prior Codifications. — 1981 Ed., § 2-3305.3.

Effect of amendments. — D.C. Law 15-88, in subsecs. (a)(3) and (d), substituted "VIII and VIII-A" for "and VIII".

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.
Equal protection.
Evidence.
In general.
Reciprocity or endorsement.

Due process.

Due process rights of physician who applied for licensure in District of Columbia (D.C.) were not violated by D.C. Board of Medicine's consideration of criteria not required by D.C. Code; rule promulgated after physician filed his application allowed Board to determine whether applicant "possesses the appropriate skills, knowledge, judgment, and character to practice medicine." D.C. Code 1981, §§ 2-3305.3, 2-3305.4; U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

That requirements for obtaining license in psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant due process, insofar as applicant did not come within grandfather clause and had no constitutionally protected right to receive license. D.C. Code 1981, § 2-3305.4(o); U.S. Const.Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Equal protection.

That requirements for obtaining license in

psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant equal protection, even though foreign trained applicants were allowed to prove their degrees were substantially equivalent to the required degree in psychology; legislature could reasonably conclude that foreign trained applicants would face different obstacles than person trained in United States where there is professional agreement about requirements for course curricula and there are universities with psychology degree-granting departments. D.C. Code 1981, § 2-3305.4(o); U.S. Const.Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Evidence.

Board of Psychology's determination that applicant's doctoral degree in guidance and counseling was not a "degree in psychology," as would entitle applicant to become licensed psychologist, was supported by substantial evidence; neither applicant's degree nor her official transcript stated that degree was one in psychology, applicant's degree was not listed in relevant edition of designated doctoral programs in psychology, and applicant did not seek to have her degree certified as one in psychology. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562

A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

In general.

Code did not prevent Board of Medicine from determining, as matter of policy and without formal rule-making, minimum passing score on FLEX examination required for licensure in district. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Psychology's determination that applicant's doctoral degree in guidance and counseling was not the requisite "degree in psychology" that would allow applicant to be licensed to practice psychology was not arbitrary or capricious; Board could properly rely on determinations of accredited institutions and professional associations in determining nature of applicant's degree and Board was not required to evaluate applicant's individual courses. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Unsuccessful applicant for psychology license failed to demonstrate that Board of Psychology unconstitutionally delegated to private organizations its rule-making authority to determine what constituted a "degree in psychology"; applicant failed to prove that organizations lacked standards consistent with Health Occupation Revision Act or applied their standards other than in uniform manner. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Application of Health Occupation Revision Act, which narrowed class of persons eligible to receive licenses in psychology to those holding doctoral degrees in psychology, to applicant who, prior to enactment, received doctoral degree in guidance and counseling but failed to complete two-year experience requirement was not manifestly unjust; applicant had no unconditional right to obtain license with her guidance and counseling degree and was not prevented from qualifying for licensure as psychologist. D.C. Code 1981, §§ 2-3301.1 et seq., 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Reciprocity or endorsement.

Under District of Columbia (D.C.) Health Occupations Revision Act, D.C. Board of Medicine properly denied physician's application for licensure by endorsement only; although physician held license in New York, New York did not require completion of year-long residency for licensure, and physician had not completed his residency when he received New York license. D.C. Code 1981, §§ 2-3305.3, 2-3305.4,

2-3305.7. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Board of Medicine's interpretation of "substantial equivalency" requirements of statute, governing applications for medical license by reciprocity or endorsement, to require strict conformity with minimum passing grade on FLEX examination of 75 was not unreasonable in light of Board's broad discretion in administering waiver and endorsement provisions and Board's determination that FLEX examination provided objective measure of qualifications. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine was required to explain more fully suggested inconsistency in Board's treatment of applications for licensure by endorsement or reciprocity from those applicants licensed by states requiring FLEX examinations and those licensed by states not requiring FLEX examinations in light of evidence that Board required strict equivalency in case of psychiatrist from FLEX state but accepted *carte blanche* applicant licensed in non-FLEX state; failure by Board to review non-FLEX state-constructed examinations to determine their substantial equivalency to FLEX exam while requiring strict equivalency in case of applicants from FLEX states, as general practice, would import unacceptable degree of arbitrariness into Board's administration of endorsement and reciprocity provisions. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Psychiatrist, who was licensed in Michigan and who applied for license in District of Columbia based on reciprocity or endorsement, had no vested interest in practice in District of Columbia, and thus, had no constitutionally protected interest in licensure in District which entitled her to more searching review of her qualifications beyond her federation-certified score from FLEX examination which she took in Michigan in 1970. D.C. Code 1981, §§ 2-3301.1 to 2-3312.1, 2-3305.6(e)(1), 2-3305.7(1); U.S.C. Const.Amend. 5. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine's consideration, in psychiatrist's application for license by endorsement or reciprocity, of circumstances at time of original licensure and not intervening experience or accomplishments was not irrational in light of difficulty in assessing experience or accomplishments as objective measurement of qualification. D.C. Code 1981, § 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

§ 3-1205.04. Additional qualifications of applicants.

(a) An individual applying for a license to practice acupuncture under this chapter shall establish to the satisfaction of the Board of Medicine that the individual:

(1) If he or she is a licensed physician or chiropractor, has successfully completed at least 100 hours of instruction in the practice of acupuncture at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the Board; or

(2) If he or she is not a licensed physician, has successfully completed an educational program in the practice of acupuncture of at least 3 academic years at the post-baccalaureate level at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the Board.

(a-1)(1) An individual applying for a license to practice as an anesthesiologist assistant under this chapter shall establish to the satisfaction of the Board of Medicine that the individual has:

(A) Earned a degree or certification from an anesthesiologist assistant program accredited by the Commission for the Accreditation of Allied Health Educational Programs, or by the commission's successor;

(B) Successfully completed the Commission for the Accreditation of Allied Health Educational Programs National Certification Exam for Anesthesiologist Assistants, or an examination administered by its successor; and

(C) Successfully completed and has current certification for the Advanced Cardiac Life Support program as administered by the American Heart Association or its successor organization.

(2) An application for licensure as an anesthesiologist assistant may be filed by an individual who has taken the national certification examination required under paragraph (1)(B) of this subsection but not yet received the results.

(b) An individual applying for a license to practice chiropractic under this chapter shall establish to the satisfaction of the Board of Chiropractic that the individual:

(1) Is a graduate of an educational program in the practice of chiropractic of at least 4 academic years at a college of chiropractic accredited by the Council on Chiropractic Education or the Straight Chiropractic Academic Standards Association, or approved by the Board of Chiropractic; and

(2) Has satisfied any clinical experience established by rule.

(c) An individual applying for a license to practice dental hygiene under this chapter shall establish to the satisfaction of the Board of Dentistry that the individual is a graduate of an educational program in the practice of dental hygiene of at least 2 academic years which is approved by the Board.

(d) An individual applying for a license to practice dentistry under this chapter shall establish to the satisfaction of the Board of Dentistry that the individual is a graduate of a school of dentistry accredited by the Commission on Dental Accreditation.

(d-1) An individual applying for a license to practice massage therapy under this chapter shall establish to the satisfaction of the Board of Massage Therapy that the individual has successfully completed a minimum of 500 hours of training in massage therapy.

(e) An individual applying for a license to practice medicine under this chapter shall establish to the satisfaction of the Board of Medicine that the individual is a graduate of an accredited school of medicine and has completed at least 1 year of residency in a hospital or other health-care facility licensed by the District or by any state.

(e-1)(1) An individual applying for a license to practice naturopathic medicine under this chapter shall:

(A) Establish to the satisfaction of the Board of Medicine that the individual has earned a degree of doctor of naturopathic medicine from a college or university which at the time of the awarding of the degree was accredited by or a candidate for accreditation with:

(i) The Council of Naturopathic Medical Education ("CNME"), so long as the CNME maintains recognition from the United States Department of Education; or

(ii) Any other accrediting agency recognized by the United States Department of Education;

(B) Have successfully passed the Naturopathic Physicians Licensing Examination ("NPLEX") basic science examination and clinical science examination sections administered by the North American Board of Naturopathic Examiners, or other examination approved by the Board of Medicine or the Mayor; and

(C) Provide proof of a mailing address demonstrating that the applicant either is a District resident or has an office or location of practice involved in the practice of naturopathic medicine in the District. Post office boxes are not sufficient proof of residency to demonstrate that an applicant either is a District resident or has an office or location of practice in the District for the purposes of this subparagraph.

(2) The Board of Medicine shall not waive the educational requirements for licensure to practice naturopathic medicine for persons registered to practice naturopathy or naturopathic healing.

(e-2) An individual applying for a license to practice nursing under this chapter who was previously licensed in any jurisdiction and has not been actively practicing for 5 years or more shall submit proof of having completed a board-approved refresher course.

(f)(1) An individual applying for a license to practice nursing home administration under this chapter shall establish to the satisfaction of the Board of Nursing Home Administration that the individual:

(A) Has earned a baccalaureate degree from an accredited 4-year institution of higher education with a specialty in the courses or program of study applicable to the practice of nursing home administration; and

(B) Except as provided in paragraph (2) of this subsection, has worked for at least 1 year in a nursing home licensed in the District under the supervision of a licensed nursing home administrator.

(2) The requirement of paragraph (1)(B) of this subsection shall not apply to an applicant who has earned a master's degree in nursing home administration or other appropriate specialty from an accredited institution of higher education.

(g)(1) An individual applying for a license to practice occupational therapy under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual:

(A) Has successfully completed an entry-level occupational therapy educational program accredited by the Accreditation Council for Occupational Therapy Education ("ACOTE"); and

(B) Has successfully completed a period of at least 6 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(2)(A) An individual applying for a license to practice as an occupational therapy assistant under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual has successfully completed an occupational therapy assistant educational program accredited by ACOTE; and.

(B) Has successfully completed a period of at least 2 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(3) Repealed.

(h) An individual applying for a license to practice optometry under this chapter shall establish to the satisfaction of the Board of Optometry that the individual is a graduate of a school of optometry approved by the Board.

(i) An individual applying for a license to practice pharmacy under this chapter shall establish to the satisfaction of the Board of Pharmacy that the individual:

(1) Has earned a degree in pharmacy from a college or school of pharmacy accredited by the American Council of Pharmaceutical Education; and

(2) Has worked as a pharmacy intern in a pharmacy for the period of time required by the Mayor or has gained other equivalent experience the Mayor may permit by rule.

(j)(1) An individual applying for a license to practice physical therapy under this chapter shall establish to the satisfaction of the Board of Physical Therapy that the individual has successfully completed an educational program in the practice of physical therapy which is accredited by an agency recognized for that purpose by the United States Department of Education, or which is approved by the Board.

(2) An individual applying for a license to practice as a physical therapy assistant under this chapter shall establish to the satisfaction of the Board of Physical Therapy that the individual has successfully completed an educational program in physical therapy appropriate for preparation as a physical therapy assistant that is accredited by an agency recognized for that purpose by the United States Department of Education or is approved by the Board of Physical Therapy.

(k) An individual applying for a license to practice as a physician assistant under this chapter shall establish to the satisfaction of the Board of Medicine

that the individual has successfully completed a physician assistant educational program accredited by the Committee on Allied Health Education and Accreditation.

(l) An individual applying for a license to practice podiatry under this chapter shall establish to the satisfaction of the Board of Podiatry that the individual is a graduate of a podiatry college recognized by the American Podiatric Medical Association and approved by the Board.

(m) An individual applying for a license to practice practical nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in practical nursing that is approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District of Columbia.

(n) An individual applying for a license to practice registered nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in registered nursing approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District.

(o) An individual applying for a license to practice psychology under this chapter shall establish to the satisfaction of the Board of Psychology that the individual has:

(1)(A) Earned a doctoral degree in psychology from an accredited college or university; or

(B) Earned a doctoral degree that the Board determines is related to psychology, provided that the application is received by the Board within 2 years from March 25, 1986; and

(i) The applicant commenced the doctoral program after March 24, 1978, but before March 25, 1986; or

(ii) The doctoral degree was conferred on the applicant after March 24, 1983, but before March 25, 1986; and

(2) Completed at least 2 years of experience acceptable to the Board, at least one year of which must be postdoctoral experience.

(p) An individual applying for a license to practice respiratory therapy under this chapter shall establish to the satisfaction of the Board of Respiratory Therapy that the individual has successfully completed a respiratory care educational program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation ("CAHEA") in collaboration with the Joint Review Committee for Respiratory Therapy Education ("JRCRTE") or their successor organizations.

(q) An individual applying for a license to practice as a surgical assistant under this chapter shall establish to the satisfaction of the Board of Medicine that the individual has:

(A) Earned a degree or certification from a surgical assistant program accredited by the Commission for the Accreditation of Allied Health Educational Programs, or by the commission's successor;

(B) Successfully completed a dedicated training program for surgical assistants in the armed forces; or

(C) Demonstrated to the satisfaction of the board, the completion of full-time work experience performed in the United States under the direct supervision of a physician licensed in the United States and consisting of a least 1,300 hours of performance as a surgical assistant within the 3 years preceding the date of application; and

(D) Was certified as a surgical assistant by at least one of the following:

- (i) The National Surgical Assistant Association;
- (ii) The American Board of Surgical Assistants; or
- (iii) The National Board of Surgical Technology and Surgical Assisting.

(Mar. 25, 1986, D.C. Law 6-99, § 504, 33 DCR 729; Mar. 14, 1995, D.C. Law 10-203, § 2(f), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(e), 41 DCR 7712; Mar. 21, 1995, D.C. Law 10-231, § 2(e), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(i)-(k), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(f), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(g), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-220, § 2(d), 53 DCR 10216; Mar. 6, 2007, D.C. Law 16-228, § 2(g), 53 DCR 10244; July 7, 2009, D.C. Law 18-11, § 2(c), 56 DCR 3602; July 7, 2009, D.C. Law 18-14, § 2(d), 56 DCR 3613; July 7, 2009, D.C. Law 18-18, § 2(d), 56 DCR 3624; July 18, 2009, D.C. Law 18-26, § 2(e)(4), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.4.

Effect of amendments. — D.C. Law 15-172 added subsec. (e-1).

D.C. Law 15-237 added subsec. (a-1).

D.C. Law 16-220, in subsec. (j), designated existing text as par. (1), and added par. (2).

D.C. Law 16-228 added subsec. (q).

D.C. Law 18-11, in subsec. (g), rewrote pars. (1)(A) and (2)(A) and repealed par. (3).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(4) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

Legislative history of Law 10-231. — For legislative history of D.C. Law 10-231, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1201.02.

Legislative history of Law 16-220. — For Law 16-220, see notes following § 3-1201.02.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 18-11. — For Law 18-11, see notes following § 3-1201.02.

Legislative history of Law 18-14. — For Law 18-14, see notes following § 3-1201.02.

Legislative history of Law 18-18. — For Law 18-18, see notes following § 3-1201.02.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.
Equal protection.
In general.

Due process.

Due process rights of physician who applied for licensure in District of Columbia (D.C.) were

not violated by D.C. Board of Medicine's consideration of criteria not required by D.C. Code; rule promulgated after physician filed his application allowed Board to determine whether applicant "possesses the appropriate skills, knowledge, judgment, and character to practice medicine." D.C. Code 1981, §§ 2-3305.3, 2-3305.4; U.S. Const. Amend. 14. *Greenlee v.*

Board of Medicine, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

That requirements for obtaining license in psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant due process, insofar as applicant did not come within grandfather clause and had no constitutionally protected right to receive license. D.C. Code 1981, § 2-3305.4(o); U.S. Const.Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Equal protection.

That requirements for obtaining license in psychology changed after applicant received her doctoral degree but before applicant completed her two-year experience requirement did not deny applicant equal protection, even though foreign trained applicants were allowed to prove their degrees were substantially equivalent to the required degree in psychology; legislature could reasonably conclude that foreign trained applicants would face different obstacles than person trained in United States where there is professional agreement about requirements for course curricula and there are universities with psychology degree-granting departments. D.C. Code 1981, § 2-3305.4(o); U.S. Const.Amend. 14. *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

In general.

Under District of Columbia (D.C.) Health Occupations Revision Act, D.C. Board of Medicine properly denied physician's application for licensure by endorsement only; although physician held license in New York, New York did not require completion of year-long residency for licensure, and physician had not completed his residency when he received New York license. D.C. Code 1981, §§ 2-3305.3, 2-3305.4, 2-3305.7. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Application of Health Occupation Revision Act, which narrowed class of persons eligible to receive licenses in psychology to those holding doctoral degrees in psychology, to applicant who, prior to enactment, received doctoral degree in guidance and counseling but failed to complete two-year experience requirement was not manifestly unjust; applicant had no unconditional right to obtain license with her guidance and counseling degree and was not prevented from qualifying for licensure as psychologist. D.C. Code 1981, §§ 2-3301.1 et

seq., 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Board of Psychology's determination that applicant's doctoral degree in guidance and counseling was not the requisite "degree in psychology" that would allow applicant to be licensed to practice psychology was not arbitrary or capricious; Board could properly rely on determinations of accredited institutions and professional associations in determining nature of applicant's degree and Board was not required to evaluate applicant's individual courses. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Unsuccessful applicant for psychology license failed to demonstrate that Board of Psychology unconstitutionally delegated to private organizations its rule-making authority to determine what constituted a "degree in psychology"; applicant failed to prove that organizations lacked standards consistent with Health Occupation Revision Act or applied their standards other than in uniform manner. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Board of Psychology's determination that applicant's doctoral degree in guidance and counseling was not a "degree in psychology," as would entitle applicant to become licensed psychologist, was supported by substantial evidence; neither applicant's degree nor her official transcript stated that degree was one in psychology, applicant's degree was not listed in relevant edition of designated doctoral programs in psychology, and applicant did not seek to have her degree certified as one in psychology. D.C. Code 1981, § 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

Application of Health Occupation Revision Act, which narrowed class of persons eligible to receive licenses in psychology to those holding doctoral degrees in psychology, to applicant who, prior to enactment, received doctoral degree in guidance and counseling but failed to complete two-year experience requirement was not manifestly unjust; applicant had no unconditional right to obtain license with her guidance and counseling degree and was not prevented from qualifying for licensure as psychologist. D.C. Code 1981, §§ 2-3301.1 et seq., 2-3305.4(o). *Donahue v. District of Columbia Bd. of Psychology*, 562 A.2d 116, 1989 D.C. App. LEXIS 132 (1989).

§ 3-1205.05. Application for license, registration, or certification.

(a) An applicant for a license, registration, or certification shall:

(1) Submit an application to the board regulating the health occupation on the form required by the board; and

(2) Pay the applicable fees established by the Mayor.

(b) The social security number of each applicant for a license, registration, or certification issued pursuant to this chapter shall be recorded on the application. If a number other than the social security number is used on the face of the license, registration, or certification, the issuing agency or entity shall keep the applicant's social security number on file and the applicant shall be so advised.

(Mar. 25, 1986, D.C. Law 6-99, § 505, 33 DCR 729; Apr. 3, 2001, D.C. Law 13-269, § 103, 48 DCR 1270; July 18, 2009, D.C. Law 18-26, § 2(e)(5), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.5.

Effect of amendments. — D.C. Law 13-269 rewrote the section which had read:

“An applicant for a license shall:

“(1) Submit an application to the board regulating the health occupation on the form required by the board; and

“(2) Pay the applicable fees established by the Mayor.”

D.C. Law 18-26, in the section heading, inserted “registration, or certification”; in subsec. (a), substituted “An applicant for a license, registration, or certification shall:” for “An applicant for a license shall.”; and, in subsec. (b), substituted “license, registration, or certification issued” for “license issued” and substituted “license, registration, or certification, the issuing” for “license, the issuing”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 103 of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment

Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

For temporary (90 day) amendment of section, see § 2(e)(5) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 13-269. — Law 13-269, the “Child Support and Welfare Reform Compliance Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-254, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 8, 2000, it was assigned Act No. 13-559 and transmitted to Both Houses of Congress for its review. D.C. Law 13-269 became effective on April 3, 2001.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.06. Examinations.

(a) An applicant who otherwise qualifies for a license, registration, or certification is entitled to be examined as provided by this chapter.

(b)(1) Each board that administers examinations shall give examinations to applicants at least twice a year at times and places to be determined by the Board.

(2) When the Mayor, pursuant to subsection (e)(2) of this section, determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this chapter.

(c) Each board shall notify each qualified applicant of the time and place of examination.

(d) Except as otherwise provided by this chapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the health occupation regulated by the board.

(e) Each board, in its discretion, may waive the examination requirements:

(1) For any applicant who meets the requirements of § 3-1205.07 for licensure, registration, or certification by reciprocity or endorsement; or

(2) For any person who has been certified by a national examining board if the Mayor determines by rule that the examination was as effective for the testing of professional competence as that required in the District.

(Mar. 25, 1986, D.C. Law 6-99, § 506, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(l), 42 DCR 457; July 18, 2009, D.C. Law 18-26, § 2(e)(6), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.6.

Effect of amendments. — D.C. Law 18-26, in subsec. (a), substituted “license, registration, or certification” for “license”; and, in subsec. (e)(1), substituted “licensure, registration, or certification” for “licensure”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(6) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.

In general.

Due process.

Access to entire profession is “liberty interest” that cannot be denied without due process of law. U.S. Const. Amend. 14. Greenlee v. Board of Medicine, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

In general.

It was not arbitrary for Board of Medicine, in denying license to practice medicine by endorsement and reciprocity, to rely solely of single sitting requirement of pre-1985 Federation Licensing Examination (FLEX) rather than assessing individual qualifications of applicant, who had 20 years of practice in other jurisdictions and apparently flawless record, despite contention that Board thus created an impermissible distinction between applicants submitting applications based on FLEX examinations and those submitting applications based on state-constructed examinations. D.C.

Code 1981, § 2-3305. Tinner v. District of Columbia Dep’t of Consumer & Regulatory Affairs, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Applicant for license to practice medicine by endorsement and reciprocity sought scrambling of his Federation Licensing Examination (FLEX) test scores, in violation of single sitting requirement for pre-1985 examinations, even though the two examinations he sat for were only six months apart. Tinner v. District of Columbia Dep’t of Consumer & Regulatory Affairs, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Record supported determination of Board of Medicine, in denying license to practice medicine by endorsement and reciprocity, that Federation of State Medical Boards endorsed a single sitting requirement for pre-1985 Federation Licensing Examination (FLEX), and that Board’s interpretation of the applicable statute was reasonable, though 19 states did not apply the single sitting requirement, as 31 others did. D.C. Code 1981, § 2-3305; D.C. Mun. Regs. title 17, § 4605.2. Tinner v. District of Columbia

Dept't of Consumer & Regulatory Affairs, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Board of Medicine's interpretation of "substantial equivalency" requirements of statute, governing applications for medical license by reciprocity or endorsement, to require strict conformity with minimum passing grade on FLEX examination of 75 was not unreasonable in light of Board's broad discretion in administering waiver and endorsement provisions and Board's determination that FLEX examination provided objective measure of qualifications. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine was required to explain more fully suggested inconsistency in Board's treatment of applications for licensure by endorsement or reciprocity from those applicants licensed by states requiring FLEX examinations and those licensed by states not requiring FLEX examinations in light of evidence that Board required strict equivalency in case of psychiatrist from FLEX state but accepted carte blanche applicant licensed in non-FLEX

state; failure by Board to review non-FLEX state-constructed examinations to determine their substantial equivalency to FLEX exam while requiring strict equivalency in case of applicants from FLEX states, as general practice, would import unacceptable degree of arbitrariness into Board's administration of endorsement and reciprocity provisions. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Psychiatrist, who was licensed in Michigan and who applied for license in District of Columbia based on reciprocity or endorsement, had no vested interest in practice in District of Columbia, and thus, had no constitutionally protected interest in licensure in District which entitled her to more searching review of her qualifications beyond her federation-certified score from FLEX examination which she took in Michigan in 1970. D.C. Code 1981, §§ 2-3301.1 to 2-3312.1, 2-3305.6(e)(1), 2-3305.7(1); U.S.C. Const.Amend. 5. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

§ 3-1205.07. Reciprocity and endorsement.

(a) For the purposes of this section, the term:

(1) "Endorsement" means the process of issuing a license, registration, or certification to an applicant who is licensed, registered, certified, or accredited by an accrediting association or a state board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the licensing, registration, certification, or accreditation to the standards for that profession set forth in this chapter and who has continually remained in good standing with the licensing, registering, certifying, or accrediting association or state board from the date of licensure, registration, certification, or accreditation until the date of licensure, registration, or certification in the District.

(2) "Reciprocity" means the process of issuing a license, registration, or certification to an applicant who is licensed, registered, or certified and in good standing under the laws of another state with requirements that, in the opinion of the Board, were substantially equivalent at the time of licensure, registration, or certification to the requirements of this chapter, and that state admits health professionals licensed, registered, or certified in the District of Columbia in a like manner.

(b) Each board shall issue a license, registration, or certification to an applicant who qualifies by reciprocity or endorsement and who pays the applicable fees established by the Mayor.

(Mar. 25, 1986, D.C. Law 6-99, § 507, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(m), 42 DCR 457; Apr. 29, 1998, D.C. Law 12-86, § 403, 45 DCR 1172; July 18, 2009, D.C. Law 18-26, § 2(e)(7), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.7.

Effect of amendments. — D.C. Law 18-26 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(7) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

In general.

Under District of Columbia (D.C.) Health Occupations Revision Act, D.C. Board of Medicine properly denied physician's application for licensure by endorsement only; although physician held license in New York, New York did not require completion of year-long residency for licensure, and physician had not completed his residency when he received New York license. D.C. Code 1981, §§ 2-3305.3, 2-3305.4, 2-3305.7. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

It was not arbitrary for Board of Medicine, in denying license to practice medicine by endorsement and reciprocity, to rely solely of single sitting requirement of pre-1985 Federation Licensing Examination (FLEX) rather than assessing individual qualifications of applicant, who had 20 years of practice in other jurisdictions and apparently flawless record, despite contention that Board thus created an impermissible distinction between applicants submitting applications based on FLEX examinations and those submitting applications based on state-constructed examinations. D.C. Code 1981, § 2-3305. *Tinner v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Applicant for license to practice medicine by endorsement and reciprocity sought scrambling of his Federation Licensing Examination (FLEX) test scores, in violation of single sitting requirement for pre-1985 examinations, even though the two examinations he sat for were only six months apart. *Tinner v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Record supported determination of Board of Medicine, in denying license to practice medicine by endorsement and reciprocity, that Federation of State Medical Boards endorsed a

single sitting requirement for pre-1985 Federation Licensing Examination (FLEX), and that Board's interpretation of the applicable statute was reasonable, though 19 states did not apply the single sitting requirement, as 31 others did. D.C. Code 1981, § 2-3305; D.C. Mun. Regs. title 17, § 4605.2. *Tinner v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 703 A.2d 833, 1997 D.C. App. LEXIS 273 (1997).

Chiropractor was not entitled to certification for ancillary procedures through reciprocity based on his Florida qualifications; chiropractor failed to establish that Florida's licensing standards were substantially equivalent at date of licensure to District of Columbia's requirements. D.C. Code 1981, § 2-3305.7. *Singer v. District of Columbia Bd. of Medicine*, 631 A.2d 1232, 1993 D.C. App. LEXIS 244 (1993).

Board of Medicine's interpretation of “substantial equivalency” requirements of statute, governing applications for medical license by reciprocity or endorsement, to require strict conformity with minimum passing grade on FLEX examination of 75 was not unreasonable in light of Board's broad discretion in administering waiver and endorsement provisions and Board's determination that FLEX examination provided objective measure of qualifications. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine was required to explain more fully suggested inconsistency in Board's treatment of applications for licensure by endorsement or reciprocity from those applicants licensed by states requiring FLEX examinations and those licensed by states not requiring FLEX examinations in light of evidence that Board required strict equivalency in case of psychiatrist from FLEX state but accepted carte blanche applicant licensed in non-FLEX state; failure by Board to review non-FLEX

state-constructed examinations to determine their substantial equivalency to FLEX exam while requiring strict equivalency in case of applicants from FLEX states, as general practice, would import unacceptable degree of arbitrariness into Board's administration of endorsement and reciprocity provisions. D.C. Code 1981, §§ 2-3305.6(e), 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Psychiatrist, who was licensed in Michigan and who applied for license in District of Columbia based on reciprocity or endorsement, had no vested interest in practice in District of Columbia, and thus, had no constitutionally protected interest in licensure in District which entitled her to more searching review of her

qualifications beyond her federation-certified score from FLEX examination which she took in Michigan in 1970. D.C. Code 1981, §§ 2-3301.1 to 2-3312.1, 2-3305.6(e)(1), 2-3305.7(1); U.S.C. Const.Amend. 5. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

Board of Medicine's consideration, in psychiatrist's application for license by endorsement or reciprocity, of circumstances at time of original licensure and not intervening experience or accomplishments was not irrational in light of difficulty in assessing experience or accomplishments as objective measurement of qualification. D.C. Code 1981, § 2-3305.7. *Roberts v. District of Columbia Bd. of Medicine*, 577 A.2d 319, 1990 D.C. App. LEXIS 157 (1990).

§ 3-1205.08. Issuance of license, registration, or certification.

Each board shall issue a license, registration, or certification to an applicant who meets the requirements of this chapter and rules and regulations issued pursuant to this chapter to practice the health occupation regulated by the board.

(Mar. 25, 1986, D.C. Law 6-99, § 508, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(8), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.8.

Effect of amendments. — D.C. Law 18-26, in the section heading, inserted “, registration, or certification”; and substituted “license, registration, or certification”, for “license”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(8) of

Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.

Equal protection.

In general.

Due process.

Possession of professional license for public employment generally constitutes “property” protected by Fourteenth Amendment. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Potential for licensure or employment ordinarily does not give rise to “property interest” for due process purposes. U.S.C. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Access to entire profession is “liberty interest” that cannot be denied without due process

of law. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Procedural due process rights of physician who was denied license by District of Columbia Board of Medicine were not violated; physician was afforded notice with reasons, full hearing with opportunity to confront witnesses and rebut evidence, further opportunity to submit findings, and opportunity for judicial review. U.S. Const.Amend. 14; D.C. Code 1981, §§ 1-1501 et seq., 1-1509, 2-3301.1 et seq., 2-3305.19(c). *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Evidence supported District of Columbia Board of Medicine's refusal for three years to license physician, and thus, that refusal did not violate his due process rights; while his application met express statutory requirements for

§ 3-1205.08a DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

licensure, his employment record, including three failed residencies and extended interim between medical school and his completion of residency, justified Board's concern as to his medical preparedness and ability to handle stress of medical practice. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Due process rights of physician who applied for licensure in District of Columbia (D.C.) were not violated by D.C. Board of Medicine's consideration of criteria not required by D.C. Code; rule promulgated after physician filed his application allowed Board to determine whether applicant "possesses the appropriate skills, knowledge, judgment, and character to practice medicine." D.C. Code 1981, §§ 2-3305.3, 2-3305.4; U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

In denying physician's application for license, District of Columbia (D.C.) Board of Medicine's reliance on rule promulgated nearly one year after physician filed his application and nearly three months after physician's hearing did not violate physician's due process rights; physician had notice of pending rule and full opportunity to address its requirements in his posthearing submissions to Board, and various papers he filed asserted his right to waiver of examination requirement based on related rule promulgated at same time. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

Equal protection.

District of Columbia Board of Medicine's re-

fusal for three years to license physician to practice medicine was rationally related to legitimate state interest in promoting public health, and thus, did not violate equal protection; while his application met express statutory requirements for licensure, his employment record, including three failed residencies, and extended interim between medical school and his completion of residency, justified Board's concern as to his medical preparedness and ability to handle stress of medical practice. U.S. Const.Amend. 14. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

For equal protection purposes, denial of license to practice medicine, or any other professional occupation, does not implicate "fundamental constitutional right." *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

In general.

Under District of Columbia (D.C.) Health Occupations Revision Act, D.C. Board of Medicine properly denied physician's application for licensure by endorsement only; although physician held license in New York, New York did not require completion of year-long residency for licensure, and physician had not completed his residency when he received New York license. D.C. Code 1981, §§ 2-3305.3, 2-3305.4, 2-3305.7. *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313 (1993).

§ 3-1205.08a. Temporary license, registration, or certification.

A board may issue a temporary license, registration, or certification to an applicant for a fixed period of time, under conditions prescribed by the Mayor through rulemaking, who is licensed, registered, or certified and in good standing to practice in another jurisdiction.

(Mar. 25, 1986, D.C. Law 6-99, § 508a, as added July 18, 2009, D.C. Law 18-26, § 2(e)(9), 56 DCR 4043.)

Emergency legislation. — For temporary (90 day) addition, see § 2(e)(9) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.09. Scope of license, registration, or certification.

(a)(1) A person licensed, registered, or certified under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license, registration, or certification is effective.

(2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.

(b) An individual who fails to renew a license, registration, or certification to practice a health occupation shall be considered to be unlicensed, unregistered, or uncertified and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation.

(Mar. 25, 1986, D.C. Law 6-99, § 509, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(10), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.9.

Effect of amendments. — D.C. Law 18-26 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(10) of Health Occupations Revision General Amend-

ment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.09a. Licenses for foreign doctors of eminence and authority.

(a) Notwithstanding any other provision of this subchapter, the Board shall grant a limited license to practice specialized medicine with a university, hospital or medical center in the District of Columbia to an applicant licensed as a physician in a foreign country or state who by virtue of the recognized and conceded eminence and authority in the profession of medicine or medical research in the international community, if this applicant:

(1) Is recommended to the Board by:

(A) The dean of an accredited school of medicine in the District of Columbia;

(B) The Director of the National Institute of Health; or

(C) The Director of an accredited and licensed hospital in the District of Columbia;

(2) Is to receive an appointment at the institution making the recommendation under paragraph (1) of this subsection; and

(3) Meets the requirements of subsection (d) of this section.

(b) The Board shall not issue to any entity under paragraph (1) of this section more than 1 such license in any single year.

(c) Any license issued under this section shall be issued jointly in the name of the applicant and the sponsoring entity under subsection (a)(1) of this section.

(d) In determining whether an applicant is a recognized and conceded eminence and authority in the profession, the Board shall consider, but not be limited to, whether the applicant meets the following criteria:

(1) Is a bona fide graduate in good standing who has successfully completed medical education at a foreign medical school which is recognized or accredited by the foreign country, the Liaison Committee on Medical Education

of the Association of American Medical Colleges, or other organization satisfactory to the Board;

(2) Holds a valid foreign medical license or registration certificate, in good standing, issued by the United States or a foreign country on the basis of a foreign examination;

(3) Practiced medicine for at least 10 years in patient care, excluding the 2 years of postgraduate clinical training, 5 years of which occurred immediately preceding the date application is made to the Board;

(4) Successfully completed no less than 2 years of post graduate clinical training in a recognized medical specialty or subspecialty either in the United States or other foreign country, or in lieu of each year of required graduate medical training, documents a practice as a full time university medical school faculty member at an accredited institution;

(5) Meets the Federal Professional Visa requirements for HI Visa or holds a Federally issued HI Visa;

(6) Has been the recipient of professional honors and awards, and professional recognition in the international medical community, for achievements, contributions, or advancements in the field of medicine, or medical research as evidenced by (i) publications in recognized scientific, medical, or medical research journals, including American peer review journals, (ii) being the recipient or nominee for international or national awards for distinguished contributions to the advancement of medicine or medical research, (iii) acknowledgement of expertise from recognized American authorities in the applicant's field of medical specialty, or (iv) other professional accomplishments as determined meritorious in the sole discretion of the Board;

(7) Submits documentation from the university, hospital or medical center from which the candidate is to receive an academic appointment at such institution or has been accepted for practice, pending receipt of a license, with privileges at a university medical school, local hospital, or medical institution making the recommendation under subsection (a)(1) of this section;

(8) Submits 3 letters of recommendation from District of Columbia physicians who are licensed in the areas of medical practice for which the applicant is applying for licensure who shall attest to the candidate's qualifications, character, and ethical behavior;

(9) Submits 5 letters from renowned American specialists in the candidate's discipline who attest to his eminence and qualifications;

(10) Has never been convicted of a felony; and

(11) Agrees to perform a maximum of 15 hours per month of community service for patient care, teaching, or training as may be required by the Board.

(e) As an exception to the general education and examination requirements of §§ 3-1205.03, 3-1205.04, and 3-1205.06, the Board shall waive those requirements when an applicant under this section shall furnish proof satisfactory to the Board of successful completion or satisfaction of the requirements of subsections (a) and (b) of this section, and shall provide documentation sufficient to support the application, including, but not limited to, a diploma or certified transcripts of the applicant's medical or, if applicable, premedical education and certified verification of licensure or registration to practice medicine in a foreign country.

(1) An applicant under this section shall arrange to have certified transcripts of all medical and premedical, if applicable, education sent directly from the educational institution to the Board.

(2) The Board may waive the educational transcript requirement of this section on a showing of extraordinary hardship if the applicant is able to establish by substitute documentation that the applicant possesses the requisite education and degrees.

(3) If a document required by this section is in a language other than English, an applicant shall arrange for its translation into English by a translation service for the Board, and shall submit a notarized translation signed by the translator attesting to its accuracy.

(4) All applicants shall pay an applicant fee of \$500 to the Board.

(f) No license granted under this section shall issue to any candidate until the Board reviews the qualifications for eminence and makes a final decision. The Board shall have the sole authority and responsibility to interpret the qualifications for eminence and for licensure under these provisions, and may qualify, restrict, or otherwise limit a license granted under this section by controlling the type of medical areas of practice and patient care as the applicant has received credentials and acceptance for practice from an institution under subsection (a)(1) of this section.

(g) All applicants who have complied with these requirements, and have otherwise complied with the provisions of this subchapter, shall receive from the Board within 90 days after the application is complete by the candidate's submission of all requirements imposed under subsection (b) of this section, a license entitling them to the right to practice in the District of Columbia. Each such license shall be duly recorded in the office of the Board, in a record to be properly kept for that purpose which shall be open to public inspection, and a certified copy of the record shall be received as evidence in all courts in the District of Columbia in the trial of any case.

(1) It shall be the duty of all persons now or hereafter licensed to be registered with the Board and, thereafter, to register in like manner at such intervals and by such methods as the Board shall determine by regulations, but in no case shall such renewal period be longer than any other licensed physician. The form and method of such registration shall be determined by the Board.

(2) Each person so registering with the Board shall pay, for each biennial registration, a fee of \$1,000, which shall accompany the application for such registration.

(3) Upon receiving a proper application for such registration accompanied by the fee, if any, the Board shall issue a license to the applicant; provided, however, such license shall automatically expire when the holder's relationship with any institution under subsection (a)(1) of this section is terminated.

(h) The holder of the limited license practicing medicine or surgery beyond the areas of the medical specialty or practice as laid down in said license shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10,000 for each and every offense; and the Board is empowered to revoke such limited license, for cause, after due notice.

(i) Any person granted a limited license under this section who subsequently desires to obtain a license without restriction shall be required to meet all of the requirements of such license as set forth in this section.

(Mar. 25, 1986, D.C. Law 6-99, § 509a, as added May 16, 1995, D.C. Law 11-14, § 2, 42 DCR 1388.)

Prior Codifications. — 1981 Ed., § 2-3305.9a.

Legislative history of Law 11-14. — Law 11-14, the “Foreign Physicians of Conceded Eminence University, Hospital, and Medical Centers Practices Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-39, which was retained by Council. The

Bill was adopted on first and second readings on January 17, 1995, and February 7, 1995, respectively. Signed by the Mayor on March 9, 1995, it was assigned Act No. 11-26 and transmitted to both Houses of Congress for its review. D.C. Law 11-14 became effective on May 16, 1995.

§ 3-1205.10. Term and renewal of licenses, registrations, or certifications.

(a) A license, registration, or certification expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure, registration, or certification of not more than 3 years.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses, registrations, or certifications under this section; provided, that the Mayor shall:

(1) Require that any continuing-education requirements for the practice of medicine include instruction on pharmacology, which shall:

(A) Be evidence-based;

(B) Provide physicians with information regarding the cost-effectiveness of pharmacological treatments; and

(C) Not be financially supported by any pharmaceutical company or manufacturer;

(2) Establish continuing-education requirements for the practice of pharmaceutical detailing, in accordance with § 3-1207.44;

(3) Establish continuing education requirements for nursing home administrators that include instruction on one or more of the following topics:

(A) Staff management;

(B) Continuity in assigning the same nursing staff to the same residents as often as practicable;

(C) Creating a resident-centered environment;

(D) Activities of daily living and instrumental activities of daily living;

(E) Wound care;

(F) Pain management;

(G) Prevention and treatment of depression;

(H) Prevention of pressure ulcers;

(I) Urinary incontinence management;

(J) Discharge planning and community transitioning;

(K) Fall prevention;

(L) Geriatric social services and individual competency; and

(M) Behavior management; and

(4)(A) Except as provided in subsection (b-1) of this section, require that any continuing education requirements for the following practices include 3 credits of instruction on the Human Immunodeficiency Virus (“HIV”) and the Auto Immune Deficiency Syndrome (“AIDS”) in accordance with subparagraph (B) of this paragraph:

- (i) The practice of medicine;
- (ii) The practice of registered nursing;
- (iii) The practice of practical nursing;
- (iv) The practice by nursing assistive personnel; and
- (v) The practice of physician assistants.

(B) The instruction required by subparagraph (A) of this paragraph shall, at a minimum, provide information on one or more of the following topics:

- (i) The impact of HIV/AIDS on populations of differing ages, particularly the senior population;
- (ii) The impact of HIV/AIDS on populations of different racial and ethnic backgrounds;
- (iii) The general risk to all individuals in the District of HIV infection;
- (iv) How to inform all patients about HIV/AIDS, discuss HIV/AIDS with all patients, and appropriately monitor all patients for potential exposure to HIV and AIDS; or
- (v) The use, benefits, and risks associated with pre- and post-exposure prophylaxis treatment.

(b-1) The Mayor may:

(1) In consultation with the Board of Medicine, waive by rule the requirements of subsection (b)(4) of this section for an individual who can prove to the satisfaction of the Board of Medicine that he or she did not see patients in a clinical setting in the District during the previous licensing cycle;

(2) With recommendations by the Department of Health, expand the continuing education requirements for any licensed health professional to specifically include instruction on HIV and AIDS; and

(3) After December 31, 2018, with the advice of the relevant licensing boards, waive by rule the requirements of subsection (b)(4) of this section for one or more of the practices listed in subsection (b)(4) of this subsection, as he or she considers appropriate.

(c) At least 30 days before the license, registration, or certification expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, registrant, or person certified by first class mail to the last known address of the licensee, registrant, or person certified a renewal notice that states:

(1) The date on which the current license, registration, or certification expires;

(2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license, registration, or certification expires; and

(3) The amount of the renewal fee.

(d) Before the license, registration, or certification expires, the licensee, registrant, or person certified may renew it for an additional term, if the licensee:

- (1) Submits a timely application to the board;
- (2) Is otherwise entitled to be licensed, registered, or certified;
- (3) Pays the renewal fee established by the Mayor; and
- (4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license, registration, or certification renewal.

(e) Each board shall renew the license, registration, or certification of each licensee, registrant, or person certified who meets the requirements of this section.

(Mar. 25, 1986, D.C. Law 6-99, § 510, 33 DCR 729; Mar. 26, 2008, D.C. Law 17-131, § 102(f), 55 DCR 1659; Mar. 25, 2009, D.C. Law 17-353, § 229, 56 DCR 1117; July 18, 2009, D.C. Law 18-26, § 2(e)(11), 56 DCR 4043; Apr. 29, 2010, D.C. Law 18-145, § 2(a), 57 DCR 1834; July 13, 2012, D.C. Law 19-156, § 2, 59 DCR 5595.)

Prior Codifications. — 1981 Ed., § 2-3305.10.

Effect of amendments. — D.C. Law 17-131 rewrote subsec. (b), which had read as follows: “(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses under this section.”

D.C. Law 17-353 validated a previously made technical correction in subsec. (b)(2).

D.C. Law 18-26 rewrote the section.

D.C. Law 18-145, in subsec. (b), deleted “and” from the end of par. (1)(C), substituted “; and” for a period at the end of par. (2), and added par. (3).

D.C. Law 19-156, in subsec. (b), deleted “and” from the end of par. (2), substituted “; and” for a period at the end of par. (3)(M), and added par. (4); and added subsec. (b-1).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(11) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1201.02.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

Legislative history of Law 18-145. — Law 18-145, the “Health Care Facilities Improvement Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-481, which was referred to the Committee on Health. The bill was adopted on first and second readings on January 19, 2010, and February 2, 2009, respectively. Returned without signature by the Mayor on March 1, 2010, it was assigned Act No. 18-320 and transmitted to both Houses of Congress for its review. D.C. Law 18-145 became effective on April 29, 2010.

Legislative history of Law 19-156. — Law 19-156, the “HIV/AIDS Continuing Education Requirements Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-510, which was referred to the Committee on Health. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-363 and transmitted to both Houses of Congress for its review. D.C. Law 19-156 became effective on July 13, 2012.

Delegation of Authority. — Delegation of Authority pursuant to D.C. Law 17-131, the SaferX Amendment Act of 2008, see Mayor’s Order 2008-83, June 11, 2008 (55 DCR 9360).

§ 3-1205.11. Inactive status.

(a) Upon application by a licensee, registrant, or person certified and payment of the inactive status fee established by the Mayor, each board shall place a licensee, registrant, or person certified on inactive status.

(b) While on inactive status, the individual shall not be subject to the

renewal fee and shall not practice, attempt to practice, or offer to practice the health occupation in the District.

(c) Each board shall issue a license, registration, or certification to an individual who is on inactive status and who desires to resume the practice of a health occupation if the individual:

(1) Pays the fee established by the Mayor;

(2) Complies with the continuing education requirements in effect when the licensee, registrant, or person certified seeks to reactivate the license, registration, or certification; and

(3) Complies with the current requirements for renewal of a license, registration, or certification.

(Mar. 25, 1986, D.C. Law 6-99, § 511, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(12), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.11.

Effect of amendments. — D.C. Law 18-26 substituted “licensee, registrant, or person certified” for “licensee”; substituted “license, registration, or certification” for “license” both times it appears; and substituted “a license, registration, or certification” for “licenses”.

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(e)(12) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.12. Reinstatement of expired licenses, registrations, or certifications.

(a) If a health professional fails for any reason to renew the license, registration, or certification issued under this subchapter, the board regulating the health occupation shall reinstate the license, registration, or certification if the health professional:

(1) Applies to the board for reinstatement of the license, registration, or certification within 5 years after the license, registration, or certification expires;

(2) Complies with current requirements for renewal of a license, registration, or certification as set forth in this subchapter;

(3) Pays a reinstatement fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for license, registration, or certification reinstatements.

(b) The board shall not reinstate the license, registration, or certification of a health professional who fails to apply for reinstatement of a license, registration, or certification within 5 years after the license, registration, or certification expires. The health professional may become licensed, registered, or certified by meeting the requirements then in existence for obtaining an initial license, registration, or certification under this subchapter; except, that an individual applying for a license to practice nursing who has not been actively practicing for 5 years or more shall submit proof of having completed a board-approved refresher course in lieu of the requirements then in existence for obtaining an initial license.

(Mar. 25, 1986, D.C. Law 6-99, § 512, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(13), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.12.

Effect of amendments. — D.C. Law 18-26, in the section heading, inserted “registrations, or certifications” following “licenses”; in subsec. (a), inserted “registration or certification,” following “license,”; and rewrote subsec. (b), which had read as follows: “(b) The board shall not reinstate the license of a health professional who fails to apply for reinstatement of a license within 5 years after the license expires. The health professional may become licensed by meeting the requirements then in existence for

obtaining an initial license under this subchapter.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(13) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.13. Professional requirements.

(a) Each licensee, registrant, or person certified shall:

(1) Display the board-issued license, registration, or certification conspicuously in each place of business or employment of the licensee, registrant, or person certified;

(2) Wear a tag at all times, if practical, while acting in a professional capacity that displays his or her name and profession or title;

(3) Practice only under the legal name that appears on his or her license, registration, or certification;

(4) Notify the board in writing of any:

(A) Change of address of place of residence or place of business or employment within 30 days after the change of address;

(B) Legal change of name within 30 days after the change; or

(C) Termination, revocation, suspension, or voluntary surrender (“separation event”) of health care facility privileges by reason of incompetence or improper professional conduct, during any period while an application is pending or during the licensing, registration, or certification period by certified mail, return receipt, within 10 days of the separation event.

(b) Each licensee, registrant, or person certified shall be subject to the penalties provided by this chapter for failure to comply with the requirements of this section.

(Mar. 25, 1986, D.C. Law 6-99, § 513, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(14), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.13.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(14) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.13a. Physician and health care provider notice requirements, penalty for noncompliance; settlement agreement not a bar to filing a complaint or testifying.

(a)(1) A physician licensed by the Board shall report to the Board within 60 days of the occurrence of any of the following:

(A) Notice of a judgment against a physician named in a medical malpractice suit or notice of a confidential settlement of a medical malpractice claim to be paid by a physician, an insurer, or other entity on behalf of the physician; or

(B) Disciplinary action taken against the physician by a health care licensing authority of another state.

(2)(A) A health care provider who employs a physician who is licensed in the District of Columbia shall report to the Board any disciplinary action taken against the physician within 10 days of the action being taken. The resignation of a physician that occurs while the physician is being investigated by the health care provider shall also be reported to the Board by the health care provider within 10 days of the resignation.

(B) The Board shall impose a penalty not to exceed \$2,500 on a health care provider for failure to comply with the provisions of this paragraph.

(b) Nothing in a confidential settlement agreement shall operate to prevent the parties to the agreement from filing a complaint with the Board or from testifying in any investigation conducted by the Board.

(Mar. 25, 1986, D.C. Law 6-99, § 513a, as added Mar. 14, 2007, D.C. Law 16-263, § 201(c), 54 DCR 807.)

Legislative history of Law 16-263. — For Law 16-263, see notes following § 3-1202.03.

§ 3-1205.14. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand.

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of a quorum of its appointed members may take one or more of the disciplinary actions provided in subsection (c) of this section against any applicant for a license, registration, or certification, an applicant to establish or operate a school of nursing or nursing program, or a person permitted by this subchapter to practice a health occupation regulated by the board in the District who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license, registration, or certification for himself, herself, or another person;

(2) Fraudulently or deceptively uses a license, registration, or certification;

(3) Is disciplined by a licensing or disciplinary authority or peer review body or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section; for the purposes of

this paragraph, the term “convicted” means a judgment or other admission of guilt, including a plea of nolo contendere or an Alford plea;

(4) Has been convicted in any jurisdiction of any crime involving moral turpitude, which for the purposes of this paragraph means a crime that:

(A) Offends the generally accepted moral code of mankind;

(B) Is one of baseness, vileness, or depravity in the conduct of the private and social duties that an individual owes to his or her fellow man or to society in general; or

(C) Is one of conduct contrary to justice, honesty, modesty, or good morals.

(5) Is professionally or mentally incompetent or physically incapable;

(6) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48;

(7) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48, or other drug in excess of therapeutic amounts or without valid medical indication;

(8) Willfully makes or files a false report or record in the practice of a health occupation;

(9) Willfully fails to file or record any medical report as required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) Upon proper request, and payment of a reasonable copy fee, if required, fails to provide, within a reasonable period of time, a copy or summary report, if the patient or client consents, of the patient’s or client’s health care record to the patient or client, his or her legal representative or guardian, a hospital or third-party health professional licensed under this chapter or under the laws of another jurisdiction; for the purposes of this paragraph, the term “health care record” means any document, or combination of documents, except for a birth or death record or a record of admission to or discharge from a hospital or other health-care facility, that pertains to the history, diagnosis, or health condition of a patient or client and is generated and maintained in the process of providing health-care treatment, regardless of whether the health care record originated with or was previously in the possession of another health-care provider;

(11) Willfully makes a misrepresentation in treatment;

(12) Willfully practices a health occupation with an unauthorized person or aids an unauthorized person in the practice of a health occupation;

(13) Submits false statements to collect fees for which services are not provided or submits statements to collect fees for services which are not medically necessary;

(14) Pays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient;

(15) Fails to pay a civil fine imposed by a board, other administrative officer, or court;

(16) Willfully breaches a statutory, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient or client of the health professional, unless ordered by a court;

(17) Refuses to provide service to a person in contravention of Chapter 14 of Title 2;

(18) Violates any of the conditions of an agreement between the licensee and the board to voluntarily limit the practice of the licensee made pursuant to § 3-1205.18;

(19) Prescribes, dispenses, or administers drugs when not authorized to do so;

(20) Practices without a protocol when required by subchapter VI of this chapter;

(21) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held by the health professional;

(22) Maintains an unsanitary office or performs professional services under unsanitary conditions;

(23) Engages in:

(A) Sexual harassment of a patient or client;

(B) Sexual contact with a patient or client concurrent with and by virtue of the practitioner-patient or practitioner-client relationship;

(C) At any time during the course of the practitioner-patient or patient-client relationship, in conduct of a sexual nature that a reasonable patient or client would consider lewd or offensive; or

(D) Sexual contact with a former patient or client when the patient or client may still be vulnerable by virtue of the power imbalance that existed in the practitioner-patient or practitioner-client relationship, even if the relationship may appear to be or is mutually consensual when such contact is likely to have an adverse impact on the patient or client;

(24) Violates any provision of this chapter or rules and regulations issued pursuant to this chapter;

(25) Violates any District of Columbia or federal law, regulation, or rule related to the practice of a health profession or drugs, or fails to conduct business with honesty and fair dealing with employees or students in his or her school of nursing or nursing program, the District of Columbia, a state, the federal government, or the public;

(26) Fails to conform to standards of acceptable conduct and prevailing practice within a health profession;

(27) Violates an order of the board or the Mayor, or violates a consent decree or negotiated settlement entered into with a board or the Mayor;

(28) Demonstrates a willful or careless disregard for the health, welfare, or safety of a patient, regardless of whether the patient sustains actual injury as a result;

(29) Fails to pay the applicable fees established by the Mayor;

(30) Abandons a patient; for the purposes of this paragraph, the term "abandons" means termination, without adequate notice, of the professional relationship between a health care provider and a patient or client at a time when the patient or client is in need of further emergency care;

(31) Knowingly fails to report suspected child abuse in violation of § 4-1321.02;

(32) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services that the licensee,

registrant, or person certified is licensed and qualified to render because the individual is HIV positive;

(33) Refuses on ethical, moral, or religious grounds to provide services to a patient, customer, or client;

(34) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, any person for the purpose of causing the person to withhold or change his or her testimony in a hearing or proceeding before a board, court, or the Office of Administrative Hearings;

(35) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to a board, court, or the Office of Administrative Hearings in furtherance of any investigation of a board, court, or the Office of Administrative Hearings;

(36) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in a hearing or proceeding before a board, court, or the Office of Administrative Hearings;

(37) Fails to keep adequate medical, dental, health, or client records, as determined by a review of a board;

(38) Makes a misrepresentation or false promise, directly or indirectly, to influence, persuade, or induce patronage;

(39) Practices under a name other than the name under which the individual is licensed, registered, or certified;

(40) Makes a false or misleading statement regarding his or her skill or the efficacy or value of a medicine, treatment, or remedy prescribed or recommended by him or her, at his or her discretion, in the treatment of any disease or other condition of the body or mind;

(41) Is subject to recurrent health claims or client-liability claims, which in a board's opinion evidences professional incompetence likely to injure the public;

(42) Fails to cooperate in an investigation or obstructs an investigation ordered by a board;

(43) Continues to practice a health profession when the licensed, registered, or certified individual knows he or she has an infectious or communicable disease and that there is a high probability that the disease may be transmitted to a patient or client;

(44) Falsifies an application to establish a school of nursing or nursing program;

(45) Commits fraud or makes false claims in connection with the practice of an occupation regulated by this chapter, or relating to Medicaid, Medicare, or insurance; or

(46) Acts in a manner inconsistent with the health and safety of the residents of the nursing facility of which the licensee is the administrator.

(b)(1) A board may require a health professional to submit to a mental or physical examination whenever it has probable cause to believe the health professional is impaired due to the reasons specified in subsection (a)(5), (6), and (7) of this section. The examination shall be conducted by 1 or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the health professional who was examined.

(2) Notwithstanding the findings of the examination commissioned by the board, the health professional may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by 1 or more health professionals of his or her choice to rebut the findings of the examination commissioned by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the health professional is in violation of subsection (a)(5), (6), or (7) of this section, and the health professional shall not then be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by the board that an applicant, licensee, registrant, person certified, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

(1) Deny a license, registration, or certification to any applicant or an application to establish a school of nursing or nursing program;

(2) Revoke or suspend the license, registration, or certification of any licensee, registrant, or person certified or withdraw approval of a school of nursing or nursing program;

(3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;

(4) Reprimand any licensee, registrant, person certified, or person permitted by this subchapter to practice in the District;

(5) Impose a civil fine not to exceed \$5,000 for each violation by an applicant, licensee, registrant, person certified, or person permitted by this subchapter to practice in the District;

(6) Require a course of remediation, approved by the board, which may include:

(A) Therapy or treatment;

(B) Retraining;

(C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation; and

(D) Require participation in continuing education and professional mentoring.

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant to § 3-1205.16.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this chapter regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.

(e) A person licensed, registered, or certified to practice a health occupation in the District of Columbia is subject to the disciplinary authority of the board although engaged in practice elsewhere. Subsection (a) of this section shall not be construed to limit the disciplinary authority of the board only to conduct or activities engaged in outside of the District that result in the imposition of discipline by a licensing or disciplinary authority where the conduct occurred.

(Mar. 25, 1986, D.C. Law 6-99, § 514, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(n), 42 DCR 457; July 18, 2009, D.C. Law 18-26, § 2(e)(15), 56 DCR 4043; Apr. 29, 2010, D.C. Law 18-145, § 2(b), 57 DCR 1834.)

Prior Codifications. — 1981 Ed., § 2-3305.14.

Effect of amendments. — D.C. Law 18-26 rewrote subsecs. (a) and (c); and, in subsec. (e), substituted “licensed, registered, or certified” for “licensed”.

D.C. Law 18-145, in subsec. (a), deleted “or” from the end of par. (44), substituted “; or” for a period at the end of par. (45), and added par. (46); and, in subsec. (c)(6), deleted “; and” from the end of subpar. (B), inserted “and” at the end of subpar. (C), and added subpar. (D).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(15) of

Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

Legislative history of Law 18-145. — For Law 18-145, see notes following § 2-1205.10.

CASE NOTES

ANALYSIS

Criminal convictions.
Due process.
Evidence.
Failure to file report.
False reports.
In general.
Public policy.
Reciprocal discipline.

Criminal convictions.

The conviction of a physician of distributing obscene and indecent printed matter in this district is a sufficient ground for the revocation of his license by the board of medical supervisors, under the authority granted that board by Act Cong. June 3, 1896, c. 313, 29 Stat. 198, regulating the practice of medicine and surgery in this district. *Czarra v. Board of Medical Sup'rs of District of Columbia*, 25 App.D.C. 443, 1905 U.S. App. LEXIS 5298 (1905).

Board of Medicine had jurisdiction to hear disciplinary proceedings against physician even though notice physician received cited repealed statutory provisions of healing arts practice statute, absent showing of prejudice; physician's conviction of felony was cause for discipline under both old and new statutes and same disciplinary sanction existed for such conduct under both statutes. D.C. Code 1981, §§ 2-1344 to 2-1363, 2-3301.1 to 2-3312.1, 2-3305.14(a)(4), 2-3311.3(b); §§ 2-1301 to 2-1343, 2-1326(d)(2)(C) (repealed). *Salama v. District of Columbia Bd. of Medicine*, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Due process.

Psychologist waived his appellate claim that he was denied procedural due process of law because he never had the opportunity to cross-

examine the complaining witness on the allegations forming the basis of the revocation of his license to practice psychology, where psychologist abandoned his request to call the complaining witness during the case-in-defense. *Compton v. D.C. Bd. of Psychology*, 858 A.2d 470, 2004 D.C. App. LEXIS 456 (2004).

Suspension of physician's license by the Commission on Licensure to Practice the Healing Art for failure of physician to properly supervise employees in administration of acupuncture treatment while he was present on premises was violative of due process where there was insufficient prior notice of what was meant by term “misconduct” in statutory proscription in that “proposed policy” of Commission requiring that all treatments be administered under direct and immediate supervision of a licensed physician and that physician be physically present throughout treatment was never properly adopted and, though physician allegedly obtained notice from policy statements issued by the Medical Society of the District of Columbia, such statements were never adopted by the Commission, formally or informally, as having binding legal effect. D.C. Code § 2-123. *Lewis v. District of Columbia Com. on Licensure to Practice Healing Art*, 385 A.2d 1148, 1978 D.C. App. LEXIS 511 (1978).

Evidence.

Defense experts' national standard of care testimony was admissible in patient's medical malpractice action against doctor, arising from removal of organs from patient's body during “second look” cancer surgery, as experts' testimony was based on national standard that was not personal or speculative, but was generally accepted within defined medical community comprised of limited group of specialists

throughout country that treated rare form of cancer, and experts were board certified, attended national meetings, and treated individuals with similar types of diseases. *Kordas v. Sugarbaker*, 990 A.2d 496, 2010 D.C. App. LEXIS 92 (2010).

The Board of Psychology's revocation of psychologist's license to practice psychology was not supported by substantial evidence; the government relied on the deposition of complaining witness from a civil case against psychologist to establish its case-in-chief, complaining witness was available to testify during the case-in-chief but only testified in rebuttal, and psychologist testified during the hearing and contradicted the complaining witness's deposition statements. *Compton v. D.C. Bd. of Psychology*, 858 A.2d 470, 2004 D.C. App. LEXIS 456 (2004).

Evidence supported finding by Board of Medicine that acupuncturist, who was not a physician, failed to conform to the standards of acceptable conduct and prevailing practice within the health profession, as required for licensure; patient records, license application, and acupuncturist's own affidavit showed acupuncturist had defied cease-and-desist order in another jurisdiction, acupuncture registration certificate showed initials "M.D." after his name, and acupuncturist's alleged preceptorship was with an unlicensed preceptor. D.C. Code 1981, § 2-3305.14(a)(26). *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

Evidence supported finding by Board of Medicine that acupuncturist, who was not a physician, exhibited a willful or careless disregard for the health, welfare, or safety of a patient; acupuncturist's ex-wife testified that acupuncturist solicited and advertised as a medical doctor, and he did not have a registered collaborating physician, as required for licensure. D.C. Code 1981, § 2-3305.14(a)(28). *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

Substantial evidence supported Board of Dentistry's finding of fraud by dentist who submitted insurance claims for services which were never performed. D.C. Code 1981, § 2-3305.14(a)(3), (c)(3). *Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1992 D.C. App. LEXIS 97 (1992).

Evidence that physician's Virginia license was revoked for failure to remain enrolled in residency program satisfying restrictions on reinstatement after conviction for felony did not support finding by District of Columbia Board of Medicine that physician was disciplined in Virginia for practicing healing art in violation of effective order of Virginia Board, and, thus, physician did not perform services

beyond scope of Virginia license in violation of District of Columbia code; while physician did practice in District of Columbia after Virginia Board had revoked his license, he had valid, unrestricted district license to do so at time. D.C. Code 1981, §§ 1-1510(a)(3)(E), 2-3305.14(a)(21). *Salama v. District of Columbia Bd. of Medicine*, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Although evidence need not show intent to do harm, it must demonstrate conscious indifference to consequences under circumstances likely to cause harm, in order to establish willfulness required to revoke physician's license for willfully making or filing false report or record in the practice of health occupation. D.C. Code 1981, § 2-3305.14(a)(8). *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

Board of Medicine lacked reliable, probative and sufficient evidence to support finding of willfulness, in proceeding to revoke physician's license for willfully making or filing false report or record in the practice of health occupation; Board based its finding on documentary evidence of Maryland criminal proceeding wherein physician was charged with medicaid fraud, and record of plea proceeding was ambiguous and confusing and did not contain statement of facts presented in connection with plea. D.C. Code 1981, § 2-3305.14(a)(8); Md. Code 1957, Art. 27, §§ 230B, 230C. *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

In hearing on revocation of doctor's medical license, reliance by Commission on Licensure to Practice the Healing Art on guidelines for operation of out-patient abortion clinics which were drawn up by medical society and planned parenthood but had not been adopted or promulgated by either the Commission or by district attorney as per se evidence of malpractice was improper. *Sherman v. Commission on Licensure to Practice Healing Art*, 407 A.2d 595, 1979 D.C. App. LEXIS 481 (1979).

Failure to file report.

Board of Medicine reasonably concluded that failure by acupuncturist, who was not a licensed physician, to file registration form with Board showing that he was practicing in collaboration with a physician was a ground for license revocation, and not merely a technical violation of regulations. D.C. Mun. Regs. title 17, §§ 4712.3, 4712.4. *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

Regulatory requirement that an acupuncturist who is not a licensed physician must register his collaboration with a physician is integral to the licensure scheme for practicing acupuncture, and thus, failure to register is not merely a technical violation. D.C. Mun. Regs. title 17,

§ 4715.4. *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

False reports.

Two-year revocation of dentist's license was not disproportionate sanction for dentist's misconduct in submitting insurance claims for services he did not perform; dentist admitted that he forged patient's signature with respect to one of the specifications. D.C. Code 1981, § 2-3305.14(a)(13), (c)(3). *Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1992 D.C. App. LEXIS 97 (1992).

It was not unreasonable for the Board of Medicine to determine that false testimony given by physician as expert in medical malpractice action constituted a false report in the "practice of medicine," warranting discipline, even though the patient whose care was at issue in the action was already dead at the time of the misrepresentations. D.C. Code 1981, § 2-3301.2(7). *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

There is sufficient connection with the practice of medicine to warrant discipline if a false report is made by a physician in connection with prevention, diagnosis, or treatment, and the Board of Medicine need not show that the physician was both preventing, diagnosing, and treating a disease or condition at the time of the conduct. D.C. Code 1981, § 2-3301.2(7). *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

Statute prohibiting making of false reports in the practice of medicine does not proscribe only those false reports and records which are made in conjunction with patient care. *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

Medical board did not lack authority to impose fine upon physician for willfully making false statement in previous application for renewal of license to practice medicine, merely because physician no longer held license at time discipline was imposed; nothing in Revision Act or its legislative history precluded board from having jurisdiction to discipline former licensees for misconduct occurring while licensed where board initiates action during life of license. D.C. Code 1981, §§ 2-3305.14(a), 2-3305.17(c). *Davidson v. District of Columbia Bd. of Medicine*, 562 A.2d 109, 1989 D.C. App. LEXIS 130 (1989).

In general.

Under statute authorizing District Court of the United States for the District of Columbia sitting as a court of equity to suspend license upon evidence showing that licentiate has been guilty of misconduct, licentiate has available to him full protection of rules and "misconduct" as

a ground for suspension or revocation is not left as a matter of opinion but is susceptible to complete exposition under rules and requires proof as a matter of fact accordingly. D.C. Code 1951, §§ 2-123, 22-201; Fed.Rules Civ.Proc. rule 12(e), 18 U.S.C. *Ladrey v. Commission on Licensure to Practice Healing Art in District of Columbia*, 261 F.2d 68, 1958 U.S. App. LEXIS 3201 (C.A.D.C. 1958).

Congress had the power to prescribe the reasonable qualifications required of practitioners by Act June 3, 1896, c. 313, 29 Stat. 198, and to create a special tribunal and invest it with the power to revoke the licenses of practitioners for sufficient cause, and a sufficient cause existed in the employment of fraud or deception in passing the examination required. *Czarra v. Board of Medical Sup'rs of District of Columbia*, 25 App.D.C. 443, 1905 U.S. App. LEXIS 5298 (1905).

Unprofessional or dishonorable conduct for which Act Cong. June 3, 1896, c. 313, 29 Stat. 198, regulating the practice of medicine and surgery, authorizes the revocation of a license, is not defined by the common law, and what conduct may be of either kind is a matter of opinion only. *Czarra v. Board of Medical Sup'rs of District of Columbia*, 25 App.D.C. 443, 1905 U.S. App. LEXIS 5298 (1905).

The right of a citizen to practice his profession is too important to be taken away from him without some reasonable cause. *Czarra v. Board of Medical Sup'rs of District of Columbia*, 24 App.D.C. 251, 1904 U.S. App. LEXIS 5325 (1904).

A complaint against a medical practitioner, charging him with having been accused in the police court of distributing obscene literature; of having forfeited collateral deposited by him in that court, and if having admitted in a conversation with the complainant that he had distributed the literature referred to, does not allege acts sufficient to constitute unprofessional or dishonorable conduct, within the meaning of Act Cong. June 3, 1896, c. 313, § 10, 29 Stat. 198, regulating the practice of medicine in the District of Columbia, so as to justify the board of medical supervisors in revoking his license to practice his profession. *Czarra v. Board of Medical Sup'rs of District of Columbia*, 24 App.D.C. 251, 1904 U.S. App. LEXIS 5325 (1904).

Board of Medicine had discretion to revoke acupuncturist's license without any terms and conditions, leaving him no possibility of reinstatement, when Board found multiple grounds for discipline each supported by the record. D.C. Code 1981, §§ 2-3305.14(c), 2-3305.21(a)(1). *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

Agency's determination that certified nursing assistant had committed "abuse" of patient

based on testimony by administrator that she saw assistant talking roughly to patient, pulling patient by arm into corridor and shaking her finger in her face was not arbitrary, capricious or abuse of discretion, despite assistant's testimony that she did not intend to abuse patient, where assistant admitted that her treatment of patient was her way of dealing with difficult patients. *Hearns v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 704 A.2d 1181, 1997 D.C. App. LEXIS 248 (1997).

Summary suspension of dentist's registration to dispense controlled substances did not become nullity when administrative judge dismissed permanent revocation proceeding, and summary suspension could not serve as basis for subsequent disciplinary action against dentist's license; although summary suspension was initially imposed without hearing, dentist was provided with hearing that resulted in determination that suspension was necessary to prevent imminent danger to public health and safety, and dismissal of permanent revocation proceeding, although it may have terminated summary suspension, did not implicate or bring into question conduct of dentist underlying suspension. D.C. Code 1981, § 2-3305.14(a)(3). *Williamson v. District of Columbia Bd. of Dentistry*, 647 A.2d 389, 1994 D.C. App. LEXIS 150 (1994).

Deliberate lying under oath, as well as professional person's misrepresentation of his or her qualifications on a resume[0002] or otherwise, constitutes dishonorable and impermissible behavior. D.C. Code 1981, § 2-3301.1 et seq. *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

Failure of Board of Medicine to issue disciplinary decision within time prescribed by statute was not plain error and did not prejudice physician who continued to practice medicine during delay; directive was more "precatory" than "jurisdictional." D.C. Code 1981, §§ 2-1344 to 2-1363, 2-3301.1 to 2-3312.1, 2-3305.14(a, c), 2-3305.19(h); §§ 2-1301 to 2-1343, 2-1326(d) (repealed); U.S. Const. Amend. 6. *Salama v. District of Columbia Bd. of Medicine*, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Medical board did not lack jurisdiction to discipline physician merely because its notice of intent to revoke his license erroneously cited statutes that had been repealed; replacement statutes were substantively same as those erroneously cited and there was no demonstration of any prejudice resulting from error. D.C. Code 1981, § 2-3305.14(a)(1, 8). *Davidson v. District of Columbia Bd. of Medicine*, 562 A.2d 109, 1989 D.C. App. LEXIS 130 (1989).

In light of ambiguous and confusing plea proceeding, absence of statements of facts pre-

sented in connection with plea, and Maryland statute providing for nonentry of judgment, the Board of Medicine denied physician statutory right to present evidence, at hearing to revoke license based on Maryland criminal proceeding wherein physician was charged with medicaid fraud, when the Board refused to afford physician full opportunity to present all relevant facts underlying the charges. D.C. Code 1981, § 2-3305.14(a)(8); Md. Code 1957, Art. 27, §§ 230B, 230C. *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

Commission on Licensure to Practice the Healing Art properly understood and properly applied "willful misconduct" standard of care to action of doctor whose medical license Commission was seeking to revoke, where its final conclusions of law specifically held doctor's actions constituted willful design to perform an incomplete abortion, notwithstanding fact that Commission's decision at one point equated "gross carelessness" with "gross negligence." *Sherman v. Commission on Licensure to Practice Healing Art*, 407 A.2d 595, 1979 D.C. App. LEXIS 481 (1979).

Public policy.

Under District of Columbia law, termination of physician from at-will position of chair of emergency medical department, after she complained of alleged health and safety violations, was not wrongful discharge in violation of public policy, as set forth in statute outlining circumstances under which health care professional's license could be revoked, or regulations governing conduct of health care professionals, where physician was not required to choose between risking criminal liability and losing her job, she did not identify statute or regulation requiring her to report complaints, and there was no causal nexus between her alleged refusal to violate law and her discharge. *Ervin v. Howard Univ.*, 562 F.Supp.2d 58, 2008 U.S. Dist. LEXIS 47811 (2008).

Reciprocal discipline.

That acupuncturist had been disciplined in another jurisdiction with cease-and-desist order to stop practicing without a license was an independent ground for Board of Medicine's reciprocal discipline of revoking acupuncturist's license. D.C. Code 1981, § 2-3305.14(a)(3). *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

The fact alone of discipline by another licensing authority allows reciprocal discipline in district against person in licensed health occupation if the conduct would be grounds for discipline in district. D.C. Code 1981, § 2-3305.14(a)(3). *Faulkenstein v. District of Co-*

lumbia Bd. of Med., 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

§ 3-1205.15. Summary action.

(a)(1) The Mayor may summarily suspend or restrict, without a hearing, the license, registration, or certification of a person:

(A) Who has had his or her license, registration, or certification to practice the same profession or occupation revoked or suspended in another jurisdiction and has not had the license, registration, or certification to practice reinstated within that jurisdiction;

(B) Who has been convicted of a felony;

(C) Who has been adjudged incapacitated; or

(D) Whose conduct presents an imminent danger to the health and safety of the public, as determined by the Mayor following an investigation.

(2) A suspension or restriction shall not be stayed pending any appeal of the revocation, suspension, conviction, or judgment of incapacity.

(b) The Mayor, at the time of the summary suspension or restriction of a license, registration, or certification, shall provide the licensee, registrant, or person certified with written notice stating the action that is being taken, the basis for the action, and the right of the licensee, registrant, or person certified to request a hearing.

(c) A licensee, registrant, or person certified shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license, registration, or certification. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee, registrant, or person certified shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 5 of Title 2.

(Mar. 25, 1986, D.C. Law 6-99, § 515, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(16), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.15.

Effect of amendments. — D.C. Law 18-26 rewrote subsec. (a); in subsecs. (b), (c), and (d), substituted “licensee, registrant, or person certified” for “licensee”; and, in subsecs. (b) and (c), substituted “license, registration, or certification” for “license”. Prior to amendment, subsec. (a) read as follows: “(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the

health and safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice a health occupation.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(16) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Histor-

ical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.16. Cease and desist orders.

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 3-1205.19.

(c)(1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 3-1205.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board or the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an order compelling compliance or take any other action authorized by this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 516, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3305.16. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1205.17. Voluntary surrender of license, registration, or certification.

(a) Any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license, registration, certification, or privilege to

practice in the District, but only by delivering to the board regulating the health occupation an affidavit stating that the health professional desires to surrender the license, registration, certification, or privilege and that the action is freely and voluntarily taken, and not the result of duress or coercion.

(b) Upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license, registration, or certification of the health professional or the privilege to practice.

(c) The voluntary surrender of a license, registration, or certification shall not preclude the imposition of civil or criminal penalties against the licensee, registrant, or person certified.

(Mar. 25, 1986, D.C. Law 6-99, § 517, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(17), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.17.

Effect of amendments. — D.C. Law 18-26, in the section heading, inserted “, registration, or certification”; in subsec. (a), inserted “, registration, or certification,” twice; in subsec. (b), inserted “, registration, or certification”; and rewrote subsec. (c), which had read as follows: “(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(17) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.18. Voluntary limitation or surrender of a license, registration, or certification by impaired health professional.

(a)(1) Any license, registration, or certification issued under this chapter may be voluntarily limited by the licensee, registrant, or person certified either:

- (A) Permanently;
- (B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or
- (C) For a definite period of time under an agreement between the licensee, registrant, or person certified and the board.

(2) During the period of time that the license, registration, or certification has been limited, the licensee, registrant, or person certified shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee, registrant, or person certified to do 1 or more of the following:

- (A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;
- (B) Participate in a program of education prescribed by the board; and
- (C) Practice under the direction of a health professional acceptable to the board for a specified period of time.

(b)(1) Any license, registration, or certification issued under this chapter

may be voluntarily surrendered to the board by the licensee, registrant, or person certified either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee, registrant, or person certified and the board.

(2) During the period of time that the license, registration, or certification has been surrendered, the individual surrendering the license, registration, or certification shall not practice, attempt to practice, or offer to practice the health occupation for which the license, registration, or certification is required, shall be considered as unlicensed, and shall not be required to pay the fees for the license, registration, or certification.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license, registration, or certification under this section shall be confidential.

(Mar. 25, 1986, D.C. Law 6-99, § 518, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(18), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.18.

Effect of amendments. — D.C. Law 18-26, in the section heading, substituted “a license, registration, or certification” for “license”; substituted “license, registration, or certification” for “license”; and substituted “licensee, registrant, or person certified” for “licensee”.

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(e)(18) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1205.19. Hearings.

(a) Before a board denies an applicant a license, registration, or certification, revokes or suspends a license, registration, or certification or privilege to practice, reprimands a licensee, registrant, or person certified imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license, registration, or certification is based solely on an applicant's failure to meet minimum age requirements, hold a required degree, pass a required examination, pay the applicable fees established by the Mayor, or where there are no material facts at issue.

(b) A board, at its discretion, may request the applicant or licensee, registrant, or person certified to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this chapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 5 of Title 2.

(d) The hearing notice to be given to the individual shall be sent by certified

mail to the last known address of the individual at least 15 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f)(1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, a board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, a board may nevertheless hear and determine the matter.

(h) A board shall issue its final decision in writing within 90 days after conducting a hearing.

(i) A board may delegate its authority under this chapter to hold hearings and issue final decisions to a panel of 3 or more members of the board or an administrative law judge in accordance with rules promulgated by the Mayor. Final decisions of a hearing panel shall be considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals.

(Mar. 25, 1986, D.C. Law 6-99, § 519, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(o), 42 DCR 457; July 18, 2009, D.C. Law 18-26, § 2(e)(19), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.19.

Effect of amendments. — D.C. Law 18-26 substituted “license, registration, or certification” for “license”; and substituted “licensee, registrant, or person certified” for “licensee”; and, in subsec. (i), substituted “board or an administrative law judge in accordance” for “board in accordance”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(e)(19) of Health Occupations Revision General Amend-

ment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

ANALYSIS

Due process.
In general.

Due process.

Procedural due process rights of physician who was denied license by District of Columbia Board of Medicine were not violated; physician

was afforded notice with reasons, full hearing with opportunity to confront witnesses and rebut evidence, further opportunity to submit findings, and opportunity for judicial review. U.S. Const.Amend. 14; D.C. Code 1981, §§ 1-1501 et seq., 1-1509, 2-3301.1 et seq., 2-3305.19(c). *Greenlee v. Board of Medicine*, 813 F. Supp. 48, 1993 U.S. Dist. LEXIS 1313

(1993).

In general.

Board of Medicine's failure to issue decision in doctor's disciplinary proceeding within time prescribed in statute and regulations did not entitle doctor to relief, where delays did not prejudice doctor. *Udebiuwa v. D.C. Bd. of Med.*, 818 A.2d 160, 2003 D.C. App. LEXIS 139 (2003).

Physician had property interest and not liberty interest in his medical license and thus had no constitutional right to counsel in disciplinary hearing before Board of Medicine. D.C. Code 1981, §§ 2-1344 to 2-1363, 2-3301.1 to 2-3312.1, 2-3305.14(a, c), 2-3305.19(h); §§ 2-1301 to 2-1343, 2-1326(d) (repealed); U.S.C. Const.Amend. 6. *Salama v. District of Columbia Bd. of Medicine*, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

In light of ambiguous and confusing plea proceeding, absence of statements of facts presented in connection with plea, and Maryland statute providing for nonentry of judgment, the Board of Medicine denied physician statutory right to present evidence, at hearing to revoke license based on Maryland criminal proceeding wherein physician was charged with Medicaid fraud, when the Board refused to afford physi-

cian full opportunity to present all relevant facts underlying the charges. D.C. Code 1981, § 2-3305.14(a)(8); Md.Code 1957, Art. 27, §§ 230B, 230C. *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

Failure to raise allegation of undue delay in exceptions to proposed decision by the Board of Medicine precluded judicial review of allegation that failure to render final decision within 60 days after hearing, which concerned revocation of physician's license, was reversible error. D.C. Code 1981, §§ 2-3301.1 et seq., 2-3305.19. *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

Statement by chairman of Commission on Licensure to Practice the Healing Art in hearing concerning revocation of doctor's medical license that "[t]he Commission believes that it has sufficient evidence which, if not rebutted or explained, [would] testify the Commission's taking [the doctor's license.]" merely reflected that Commission had burden of proceeding and did not improperly place burden of persuasion on doctor. D.C. Code §§ 1-1509(b). *Sherman v. Commission on Licensure to Practice Healing Art*, 407 A.2d 595, 1979 D.C. App. LEXIS 481 (1979).

§ 3-1205.20. Judicial and administrative review of actions of board.

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 2-510.

(Mar. 25, 1986, D.C. Law 6-99, § 520, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3305.20.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

CASE NOTES

ANALYSIS

In general.

Remand.

Scope of review.

In general.

Failure of Board of Medicine to issue disciplinary decision within time prescribed by statute was not plain error and did not prejudice physician who continued to practice medicine during delay; directive was more "precatory" than "jurisdictional." D.C. Code 1981, §§ 2-1344 to 2-1363, 2-3301.1 to 2-3312.1, 2-3305.14(a, c), 2-3305.19(h); §§ 2-1301 to 2-1343, 2-1326(d) (repealed); U.S. Const.Amend. 6. *Salama v. District of Columbia*

Bd. of Medicine, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Failure to raise allegation of undue delay in exceptions to proposed decision by the Board of Medicine precluded judicial review of allegation that failure to render final decision within 60 days after hearing, which concerned revocation of physician's license, was reversible error. D.C. Code 1981, §§ 2-3301.1 et seq., 2-3305.19. *Mannan v. District of Columbia Bd. of Medicine*, 558 A.2d 329, 1989 D.C. App. LEXIS 75 (1989).

Commission on Licensure to Practice the Healing Art was not required to hold a new sanction hearing after initial revocation was set aside because of procedural errors. *Sher-*

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man v. District of Columbia Bd. of Medicine, 557 A.2d 943, 1989 D.C. App. LEXIS 81 (1989).

Where nurse's counsel, in disciplinary proceeding, agreed to defer her objection to witness' testimony on basis of surprise until later in proceeding, and thereafter did not further object to witness' testimony or at any time assert prejudice, nurse failed to afford Nurses' Examining Board sufficient opportunity to consider prejudice which may have resulted from lack of timely notice of witness' testimony, and was thereby precluded from raising issue on review. *Arthur v. District of Columbia Nurses' Examining Bd.*, 459 A.2d 141, 1983 D.C. App. LEXIS 347 (1983).

Remand.

Erroneous finding by Board of Medicine that Virginia's Board of Medicine revoked physician's license for failure to comply with terms of order warranted remand absent showing that erroneous finding was unnecessary to District of Columbia Board of Medicine's ruling revoking license to practice medicine. D.C. Code 1981, §§ 1-1510(b), 11-2503(a). *Salama v. District of Columbia Bd. of Medicine*, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Head nurse's conflicting statements as to why she had originally signed "control sheet" indicating that she had witnessed nurse properly dispose of demerol but then changed her mind and scratched out her signature affected head nurse's credibility, and thus, Nurses' Examining Board's failure, in proceeding against nurse for unlawful possession of demerol, to

permit cross-examination relating to head nurse's prior statements on subject constituted error; however, where substantial evidence independently supported Board's finding that nurse unlawfully possessed demerol, error was not prejudicial and remand was not required. D.C. Code 1981, §§ 1-1509(b), 1-1510; D.C. Code 1978 Supp. § 2-407. *Arthur v. District of Columbia Nurses' Examining Bd.*, 459 A.2d 141, 1983 D.C. App. LEXIS 347 (1983).

Scope of review.

Court of Appeals would analyze Board of Medicine's revocation of license to practice acupuncture by reviewing each basis for the Board's decision, where revocation was based on multiple grounds, and Court of Appeals could not be sure that Board would have based its ruling on a lesser number. *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

Meaning of the term "the practice of medicine" as used in statutes governing discipline of physicians is one which demands the type of agency expertise and informed discretion towards which court will show great deference, and court must give the Board of Medicine's decision substantial weight. *Joseph v. District of Columbia Bd. of Medicine*, 587 A.2d 1085, 1991 D.C. App. LEXIS 47 (1991).

Review in Court of Appeals is limited to final orders and decisions of the Practical Nurses' Examining Board. D.C. Code 1961, § 2-434. *Spencer v. Practical Nurses' Examining Board*, 217 A.2d 602, 1966 D.C. App. LEXIS 148 (App. 1966).

§ 3-1205.21. Reinstatement of suspended or revoked license, registration, or certification.

(a) Except as provided in subsection (b) of this section, a board may reinstate the license, registration, or certification or privilege of an individual whose license, registration, or certification or privilege has been suspended or revoked by the board only in accordance with:

- (1) The terms and conditions of the order of suspension or revocation; or
- (2) A final judgment or order in any proceeding for review.

(b)(1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the individual to be licensed, registered, or certified, and the conviction subsequently is overturned at any stage of an appeal or other postconviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.

(Mar. 25, 1986, D.C. Law 6-99, § 521, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(20), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3305.21.

Effect of amendments. — D.C. Law 18-26, in the section heading, inserted “registration, or certification”; in subsec. (a), substituted “license, registration, or certification” for “license”; and, in subsec. (b), substituted “licensed, registered, or certified” for “licensed”.

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(e)(20) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

In general.

Board of Medicine had discretion to revoke acupuncturist's license without any terms and conditions, leaving him no possibility of reinstatement, when Board found multiple grounds

for discipline each supported by the record. D.C. Code 1981, §§ 2-3305.14(c), 2-3305.21(a)(1). *Faulkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 1999 D.C. App. LEXIS 61 (1999).

§ 3-1205.22. Criminal background check.

(a) No license or registration shall be issued to a health professional before a criminal background check has been conducted for that person. The applicant for a license or registration shall pay the fee established by the Department of Health for the criminal background check.

(b) The criminal background check shall be obtained by the Department of Health from the U.S. Department of Justice, or from a private agency determined by the Department of Health. The results of the criminal background check shall be forwarded directly to the appropriate health licensing board.

(Mar. 25, 1986, D.C. Law 6-99, § 522, as added Mar. 6, 2007, D.C. Law 16-222, § 2, 53 DCR 10219.)

Legislative history of Law 16-222. — Law 16-222, the “Licensed Health Professional Criminal Background Check Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-438, which was referred to Committee on Human Services. The Bill was adopted

on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19, 2006, it was assigned Act No. 16-551 and transmitted to both Houses of Congress for its review. D.C. Law 16-222 became effective on March 6, 2007.

§ 3-1205.23. Suspension of license, registration, or certification during incarceration for felony or misdemeanor conviction.

A board may suspend the license, registration, or certification of a person during any time that the person is incarcerated after conviction of a felony or misdemeanor, regardless of whether the conviction has been appealed. A board, immediately upon receipt of a certified copy of a record of a criminal conviction, shall notify the person in writing at that person's address of record with the board, and at the facility in which the person is incarcerated, of the suspension and that the person has a right to request a hearing. If requested, the hearing shall be held within 6 months of the release of the licensee, registrant, or person certified.

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(Mar. 25, 1986, D.C. Law 6-99, § 523, as added July 18, 2009, D.C. Law 18-26, § 2(e)(21), 56 DCR 4043.)

Cross references. — Licensing of health professionals, general qualifications of applicants, see § 3-1205.03.

Emergency legislation. — For temporary (90 day) addition, see § 2(e)(21) of Health Oc-

cupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

Subchapter VI. Advanced Registered Nursing; Scope of Practice; Requirement of Protocol; Collaboration.

§ 3-1206.01. General authorization.

(a) The advanced practice registered nurse may perform actions of medical diagnosis, treatment, prescription, and other functions authorized by this subchapter.

(b) Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 601, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(p), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.1.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.02. Requirements of protocols. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 602, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(q), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.2.

Legislative history of Law 10-247. — For

legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.03. Collaboration.

(a) Generally, advanced practice registered nurses shall carry out acts of advanced registered nursing in collaboration with a licensed health care provider.

(b) Repealed.

(c) Repealed.

(d) Notwithstanding the provisions of this section, hospitals, facilities, and agencies, in requiring specific levels of collaboration and licensed health care providers in agreeing to the levels of collaboration, shall apply reasonable, nondiscriminatory standards, free of anticompetitive intent or purpose, in accordance with Chapter 14 of Title 2, Chapter 45 of Title 28, and § 44-507.

(Mar. 25, 1986, D.C. Law 6-99, § 603, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(r), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.3.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.04. Authorized acts.

An advanced practice registered nurse may:

- (1) Initiate, monitor, and alter drug therapies;
- (2) Initiate appropriate therapies or treatments;
- (3) Make referrals for appropriate therapies or treatments; and
- (4) Perform additional functions within his or her specialty determined in accordance with rules and regulations promulgated by the board.

(Mar. 25, 1986, D.C. Law 6-99, § 604, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(s), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.4.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.05. Nurse-anesthesia. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 605, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(t), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.5.

Legislative history of Law 10-247. — For

legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.06. Nurse-midwifery. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 606, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(u), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3306.6.

Legislative history of Law 10-247. — For

legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1206.07. Nurse-practitioner practice. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 607, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(v), 42 DCR 457.)

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Prior Codifications. — 1981 Ed., § 2-3306.7. legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For

§ 3-1206.08. Qualifications, certification. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 608, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(w), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 69, 43 DCR 530; July 7, 2009, D.C. Law 18-18, § 2(e), 56 DCR 3624.)

Prior Codifications. — 1981 Ed., § 2-3306.8.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 18-18. — For Law 18-18, see notes following § 3-1201.02.

Subchapter VI-A. Naturopathic Medicine; Scope of Practice; Required Disclosures.

§ 3-1206.21. Scope of practice.

(a) In connection with the system of health care defined in § 3-1201.02(7A), an individual licensed to practice naturopathic medicine under this subchapter may:

(1) Administer or provide for preventive and therapeutic purposes natural medicines by their appropriate route of administration, natural therapies, topical medicines, counseling, hypnotherapy, dietary therapy, naturopathic physical medicine, therapeutic devices, and barrier devices for contraception. For the purposes of this paragraph, the term “naturopathic physical medicine” means the use of the physical agents of air, water, heat, cold, sound, and light, and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise, and includes naturopathic manipulation and mobilization therapy; and

(2) Review and interpret the results of diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations, electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

(b) An individual licensed to practice naturopathic medicine under this chapter shall not:

(1) Prescribe, dispense, or administer any controlled substances, except those natural medicines authorized by this chapter;

(2) Perform surgical procedures, except for minor office procedures, as defined by rule;

(3) Use for therapeutic purposes, any device regulated by the United States Food and Drug Administration (“FDA”) that has not been approved by the FDA.

(4) Participate in naturopathic childbirth, unless the naturopathic physician:

(A) Passes a specialty examination in obstetrics or natural childbirth approved by the Advisory Committee on Naturopathic Medicine, Board of Medicine, or the Mayor, such as the American College of Nurse Midwives Written Examination or an equivalent national examination;

(B) Has a minimum of 100 hours of course work, internship, or preceptorship in obstetrics of natural childbirth approved by the Advisory Committee on Naturopathic Medicine;

(C) Files with the Department of Health and maintains a written collaboration agreement with a licensed obstetrician who is qualified to perform obstetrical surgery; and

(D) Has assisted in a minimum of 50 supervised births, including prenatal and postnatal care, under the direct supervision of a licensed naturopathic, medical, or osteopathic physician with specialty training in obstetrics or natural childbirth, at least 25 of which document the naturopathic physician as the primary birth attendant.

(c) Nothing in this section shall be construed to prohibit the use, practice, or administration of nutritional supplements, iridology, herbs, vitamins, foods, food extracts, homeopathic preparations, natural therapies and remedies, and such physical forces as heat, cold, touch, and light, as permitted by law, by persons not licensed to practice naturopathic medicine under this chapter.

(d) An individual licensed to practice naturopathic medicine under this chapter may use the titles “Doctor of Naturopathic Medicine”, “Naturopathic Physician”, “Licensed Naturopath”, “Naturopathic Doctor”, “Doctor of Naturopathy”, “Naturopath”, or the initials “ND” or an “NMD”.

(Mar. 25, 1986, D.C. Law 6-99, § 621, as added July 8, 2004, D.C. Law 15-172, § 2(g), 51 DCR 4938.)

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

§ 3-1206.22. Required disclosures.

Unless also licensed by the Board of Medicine to practice medicine in the District, practitioners of naturopathic medicine shall:

(1) Provide to the client or patient, before providing services, a written notice in a language the client or patient understands that the practitioner is not licensed to practice medicine; and

(2) Obtain written acknowledgment from the client or patient that the client or patient has been provided the notice required in paragraph (1) of this section.

(Mar. 25, 1986, D.C. Law 6-99, § 622, as added July 8, 2004, D.C. Law 15-172, § 2(g), 51 DCR 4938.)

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

*Subchapter VI-B. Anesthesiologist Assistants; Scope of Practice;
License Renewal; Transition; Council Hearing.*

§ 3-1206.31. Scope of practice.

(a) An anesthesiologist assistant shall be licensed by the Board of Medicine before administering anesthesia within the District of Columbia.

(b) An individual licensed to practice as an anesthesiologist assistant, as that practice is defined in § 3-1201.02(2A), shall have the authority to:

(1) Obtain a comprehensive patient history, perform relevant elements of a physical examination, and present the history to the supervising anesthesiologist;

(2) Pretest and calibrate anesthesia delivery systems and obtain and interpret information from the systems and monitors, in consultation with an anesthesiologist;

(3) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;

(4) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;

(5) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;

(6) Administer anesthetic drugs, adjuvant drugs, and accessory drugs, including narcotics;

(7) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures, spinal anesthetic procedures, and other regional anesthetic techniques;

(8) Administer blood, blood products, and supportive fluids;

(9) Provide assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation;

(10) Monitor, transport, and transfer care to appropriate anesthesia or recovery personnel;

(11) Participate in administrative, research, and clinical teaching activities, as authorized by the supervising anesthesiologist; and

(12) Perform such other tasks that an anesthesiologist assistant has been trained and is proficient to perform.

(c) Anesthesiologist assistants shall not:

(1) Prescribe any medications or controlled substances;

(2) Practice or attempt to practice unless under the supervision of an anesthesiologist who is immediately available for consultation, assistance, and intervention;

(3) Practice or attempt to administer anesthesia during the induction or emergence phase without the personal participation of the supervising anesthesiologist; or

(4) Administer any drugs, medicines, devices, or therapies the supervising anesthesiologist is not qualified or authorized to prescribe.

(d)(1) The supervising anesthesiologist shall be immediately available to participate directly in the care of the patient whom the anesthesiologist

assistant and the anesthesiologist are jointly treating, and shall at all times accept and be responsible for the oversight of the health care services rendered by the anesthesiologist assistant.

(2) A supervising anesthesiologist shall be present during the induction and the emergence phases of a patient to whom anesthesia has been administered.

(3) A supervising anesthesiologist may supervise up to 4 anesthesiologist assistants at any one time.

(4) No faculty member of an anesthesiologist assistants program shall concurrently supervise more than 2 anesthesiologist assistant students who are delivering anesthesia.

(e) For the purposes of this section, the term:

(1) "Anesthesiologist" means a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

(2) "Immediately available" means the supervising anesthesiologist is:

(A) Present in the building or facility in which anesthesia services are being provided by an anesthesiologist assistant; and

(B) Able to directly provide assistance to the anesthesiologist assistant in providing anesthesia services to the patient in accordance with the prevailing standards of:

(i) Acceptable medical practice;

(ii) The American Society of Anesthesiologists' guidelines for best practice of anesthesia in a care team model; and

(iii) Any additional requirements established by the Board of Medicine through a formal rulemaking process.

(3) "Supervision" means directing and accepting responsibility for the anesthesia services rendered by an anesthesiologist assistant in a manner approved by the Board of Medicine.

(Mar. 25, 1986, D.C. Law 6-99, § 631, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-228, § 2(h), 53 DCR 10244; Mar. 25, 2009, D.C. Law 17-353, § 192, 56 DCR 1117.)

Effect of amendments. — D.C. Law 16-228 rewrote subsec. (d)(3), which formerly read:

"(d)(3) A supervising anesthesiologist may supervise up to 3 anesthesiologist assistants at any one time during normal circumstances, and up to 4 anesthesiologist assistants at any one time during emergency circumstances, consistent with federal rules for reimbursement for anesthesia services."

D.C. Law 17-353 validated a previously made technical correction in subsec. (c)(4).

Legislative history of Law 15-237. — Law 15-237, the "Anesthesiologist Assistant Licensure Amendment Act of 2004", was introduced

in Council and assigned Bill No. 15-634, which was referred to the Committee Human Services. The Bill was adopted on first and second readings on September 21, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-577 and transmitted to both Houses of Congress for its review. D.C. Law 15-237 became effective on March 16, 2005.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-1206.32. License renewal.

The Board of Medicine shall renew the license of an anesthesiologist assistant who, in addition to meeting the requirements of § 3-1205.10, has submitted to the Board, along with the application for renewal, documentation of current certification as an Anesthesiologist Assistant — Certified (“AA-C”) by the Commission for the Accreditation of Allied Health Education Programs, or its successor, including completion of the necessary continuing medical education credits required to maintain AA-C status.

(Mar. 25, 1986, D.C. Law 6-99, § 632, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1206.31.

§ 3-1206.33. Transition.

For a period of 2 years following March 16, 2005, all references in this chapter to anesthesiologist assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

(Mar. 25, 1986, D.C. Law 6-99, § 633, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1206.31.

§ 3-1206.34. Council hearing.

Three years from March 16, 2005, the Council committee having jurisdiction over the Department of Health shall hold a public hearing on the appropriateness of the requirements for anesthesiologist assistants imposed by the Act [D.C. Law 15-237].

(Mar. 25, 1986, D.C. Law 6-99, § 634, as added Mar. 16, 2005, D.C. Law 15-237, § 2(h), 51 DCR 10593.)

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1206.31. **References in text.** — The “Act”, referred to in text, refers to Law 15-237.

Subchapter VI-C. Surgical Assistants; Scope of Practice; License Renewal; Transition.

§ 3-1206.41. Scope of practice.

(a) A surgical assistant shall be licensed by the Board of Medicine before practicing as a surgical assistant within the District of Columbia.

(b) An individual licensed to practice as a surgical assistant, as that practice is defined in § 3-1201.02(20) shall have the authority to:

- (1) Provide local infiltration or the topical application of a local anesthetic and hemostatic agents at the operative site;
 - (2) Incise tissues;
 - (3) Ligate and approximate tissues with sutures and clamps;
 - (4) Apply tourniquets, casts, immobilizers, and surgical dressings;
 - (5) Check the placement and operation of equipment;
 - (6) Assist in moving and positioning the patient;
 - (7) Assist the surgeon in draping the patient;
 - (8) Prepare a patient by cleaning, shaving, and sterilizing the incision area;
 - (9) Retract tissue and expose the operating field area during operative procedures;
 - (10) Place suture ligatures and clamp, tie, and clip blood vessels to control bleeding during surgical entry;
 - (11) Use cautery for hemostasis under direct supervision;
 - (12) Assist in closure of skin and subcutaneous tissue;
 - (13) Assist in the cleanup of the surgical suite; and
 - (14) Check and restock the surgical suite.
- (c) A surgical assistant shall not:
- (1) Perform any surgical procedure independently;
 - (2) Have prescriptive authority; or
 - (3) Write any progress notes or orders on hospitalized patients, except operative notes.
- (d) A supervising surgeon shall perform the critical portions of a surgical procedure and shall remain immediately available in the surgical suite for delegated acts that the surgical assistant performs or to respond to any emergency. Telecommunication shall not suffice as a means for directing delegated acts.
- (e) For the purposes of this section, the term “supervising surgeon” means a surgeon licensed by the Board who delegates to a licensed surgical assistant surgical assisting and oversees and accepts responsibility for the surgical assisting.

(Mar. 25, 1986, D.C. Law 6-99, § 641, as added Mar. 6, 2007, D.C. Law 16-228, § 2(i), 53 DCR 10244; Mar. 25, 2009, D.C. Law 17-353, § 150, 56 DCR 1117.)

Effect of amendments. — D.C. Law 17-353 validated a previously made technical correction in subsec. (e).

Legislative history of Law 16-228. — Law 16-228, the “Surgical Assistant Licensure Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-712, which was referred to Committee on Human Services. The Bill was adopted on first and second read-

ings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 19 2006, it was assigned Act No. 16-557 and transmitted to both Houses of Congress for its review. D.C. Law 16-228 became effective on March 6, 2007.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

§ 3-1206.42. License renewal.

The Board of Medicine shall renew the license of a surgical assistant who, in addition to meeting the requirements of § 3-1205.04(q), has submitted to the

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Board, along with the application for renewal, documentation of current certification as a surgical assistant by:

- (1) The National Surgical Assistant Association;
- (2) The American Board of Surgical Assistants; or
- (3) The National Board of Surgical Technology and Surgical Assisting.

(Mar. 25, 1986, D.C. Law 6-99, § 642, as added Mar. 6, 2007, D.C. Law 16-228, § 2(i), 53 DCR 10244; July 18, 2009, D.C. Law 18-26, § 2(f), 56 DCR 4043.)

Effect of amendments. — D.C. Law 18-26, in par. (1), deleted “or” from the end; in par. (2), substituted “; or” for a period at the end; and added par. (3).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(f) of Health Occupations Revision General Amend-

ment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1206.41.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1206.43. Transition.

For a period of 2 years following March 6, 2007, all references in this chapter to surgical assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

(Mar. 25, 1986, D.C. Law 6-99, § 643, as added Mar. 6, 2007, D.C. Law 16-228, § 2(i), 53 DCR 10244.)

Cross references. — Licensing of health professionals, general qualifications of applicants, see § 3-1205.03.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1206.41.

Subchapter VII. Qualifications for Licensure to Practice Dietetics and Nutrition; Waiver of Examination.

§ 3-1207.01. Qualifications for licensure.

(a) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a dietitian shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, foods and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred; and

(2) Successfully complete the certification examination of the Commission on Dietetic Registration of the American Dietetic Association.

(b) Licensure to practice dietetics pursuant to this chapter shall also entitle the licensee to use the title of nutritionist.

(c) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nutritionist shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, food and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred, or shall have completed other training, approved by the Board, which is substantially equivalent to the curricula of accredited institutions; and

(2) Successfully complete the examination developed and required by the Mayor and administered by the Board.

(d) The Mayor, by rule, shall establish requirements for the completion of a planned, continuous, preprofessional program of supervised experience as a condition for licensure as a dietitian or nutritionist.

(e) The Mayor shall, within 12 months of March 25, 1986, develop, and update as necessary, an examination to assess an applicant's knowledge and understanding of the principles of nutrition and ability to apply the principles effectively and for the benefit of patients or clients in the practice of nutrition.

(Mar. 25, 1986, D.C. Law 6-99, § 701, 33 DCR 729; Feb. 24, 1987, D.C. Law 6-192, § 8, 33 DCR 7836.)

Prior Codifications. — 1981 Ed., § 2-3307.1.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-192. — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill

No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 3-1207.02. Waiver of examination.

The board shall waive the examination requirement of § 3-1207.01(a)(2) and (c)(2) for any applicant for licensure as a dietitian or nutritionist who presents evidence satisfactory to the Board that the applicant meets the qualifications required by § 3-1207.01(a)(1) or § 3-1207.01(c)(1) and has been employed in the practice of dietetics or nutrition on a full-time or substantially full-time basis for at least 3 of the last 5 years immediately preceding March 25, 1986, provided that application for the waiver is made within 24 months of March 25, 1986.

(Mar. 25, 1986, D.C. Law 6-99, § 702, 33 DCR 729; Mar. 11, 1988, D.C. Law 7-87, § 2(a), 35 DCR 162.)

Prior Codifications. — 1981 Ed., § 2-3307.2.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Health Occupations Revision Act of 1985 Temporary Amendment Act of 1987 (D.C. Law 7-20, July 25, 1987, law notification 34 DCR 5351).

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-87. — Law 7-87, the "District of Columbia Health Occupations Revision Act of 1985 Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-211, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second read-

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ings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-125 and transmitted to both Houses of Congress for its review.

Editor's notes. — Near the middle of the section, "(c)(1)" was substituted for "(b)(1)", to correct an error in D.C. Law 6-99.

Subchapter VII-A. Qualifications for Licensure to Practice Professional Counseling; Transition of Professional Counselors; Waiver of Licensure Requirements.

§ 3-1207.10. Qualifications for licensure.

(a) The Board of Professional Counseling shall license as a professional counselor a person who, in addition to meeting the requirements of subchapter V of this chapter, has satisfactorily completed the examination process, has completed 60 hours of postgraduate education in counseling or a related subject from an accredited college or university, and has completed 2 years of supervised counseling experience.

(b) The Board of Professional Counseling shall license as a graduate professional counselor a person who, in addition to meeting the requirements of subchapter V of this chapter [§3-1205.01 et seq.], has satisfactorily completed the examination process and has completed 48 hours of graduate education leading to a Master's degree in counseling or a related subject from an accredited college or university.

(c) The Board of Professional Counseling shall license, by endorsement, a professional counselor who, in addition to meeting the requirements of subchapter V of this chapter [§3-1205.01 et seq.], is currently licensed in another state and meets the American Association of State Counseling Boards Tier II requirements, which consist of:

(1) Completion of at least 60 hours of postgraduate education leading to a Master's degree in counseling or a related field obtained from an institution of higher education that is regionally accredited by an accrediting body recognized by the U.S. Department of Education;

(2) Supervision by another person, which shall consist of at least 2 years of post-Master's counseling experience with a minimum of 4,000 hours;

(3) Having 2,500 hours of direct client contact within the 4,000 hours;

(4) A minimum of 100 hours of clinical supervision, post-Master's, of which 50 hours may be in group supervision; and

(5) Five years of post-licensure experience in clinical counseling at the independent level.

(Mar. 25, 1986, D.C. Law 6-99, § 710, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824; July 7, 2009, D.C. Law 18-13, § 2(d), 56 DCR 3608.)

Prior Codifications. — 1981 Ed., § 2-3307.10.

Effect of amendments. — D.C. Law 18-13 designated subsec. (a); and added subsecs. (b) and (c).

Legislative history of Law 9-126. — For

legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.02.

§ 3-1207.11. Transition of professional counselors.

For a period of 2 years following July 22, 1992, all reference to a professional counselor shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed.

(Mar. 25, 1986, D.C. Law 6-99, § 711, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.)

Prior Codifications. — 1981 Ed., § 2-3307.11. legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 9-126. — For

§ 3-1207.12. Waiver of licensure requirements.

(a) The Board of Professional Counseling shall waive the 60 hours of postgraduate education and examination requirements for any applicant for licensure as a professional counselor who can demonstrate, to the satisfaction of the Board, that he or she holds a bachelor's degree in counseling or a related subject from an accredited college or university and has been performing the functions of a professional counselor, as defined by this subchapter, on a full-time or substantially full-time basis continually for at least 24 months immediately preceding July 22, 1992, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that the application for licensure is made within 24 months of July 22, 1992.

(b) The Board of Professional Counseling shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a professional counselor if the person has practiced as a professional counselor or as a professional counselor administrator within a 3-year period immediately preceding July 22, 1992, and is qualified to do so on the basis of pertinent experience and demonstrated current competence, provided that the application for licensure is made within 12 months of July 22, 1992.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed professional counselors.

(Mar. 25, 1986, D.C. Law 6-99, § 712, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.)

Prior Codifications. — 1981 Ed., § 2-3307.12. legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 9-126. — For

Subchapter VII-B. Waiver of Licensure Requirements for Respiratory Care Practitioners.

§ 3-1207.21. Waiver of licensure requirements — Demonstration of performance.

The Board of Respiratory Care shall waive the educational and examination

requirements for any applicant for licensure as a respiratory therapist who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a respiratory therapist, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent education, training, experience and demonstrated current competence, provided that the application for the license is made within 12 months of October 17, 2002.

(Mar. 25, 1986, D.C. Law 6-99, § 720, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707; Apr. 18, 1996, D.C. Law 11-110, § 7(c), 43 DCR 530; Oct. 17, 2002, D.C. Law 14-197, § 2(a), 49 DCR 7642.)

Prior Codifications. — 1981 Ed., § 2-3307.21.

Effect of amendments. — D.C. Law 14-197 substituted “12 months of October 17, 2002” for “24 months of March 14, 1995”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of Education and Examination Exemption for Respiratory Care Practitioners Temporary Amendment Act of 2002(D.C. Law 14-142, May 21, 2002, law notification 49 DCR 5059).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of Education and Examination Exemption for Respiratory Care Practitioners Emergency Amendment Act of 2002 (D.C. Act 14-280, February 25, 2002, 49 DCR 2293).

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see His-

torical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 14-197. — Law 14-197, the “Education and Examination Exemption for Respiratory Care Practitioners Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-324, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 18, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 17, 2002, it was assigned Act No. 14-430 and transmitted to both Houses of Congress for its review. D.C. Law 14-197 became effective on October 17, 2002.

§ 3-1207.22. Waiver of licensure requirements — Meeting educational requirements.

The Board of Respiratory Care shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a respiratory therapist, whether full time or not, within a 3-year period immediately preceding March 14, 1995, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 12 months of October 17, 2002.

(Mar. 25, 1986, D.C. Law 6-99, § 721, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707; Apr. 18, 1996, D.C. Law 11-110, § 7(d), 43 DCR 530; Oct. 17, 2002, D.C. Law 14-197, § 2(b), 49 DCR 7642.)

Prior Codifications. — 1981 Ed., § 2-3307.22.

Effect of amendments. — D.C. Law 14-197 substituted “12 months of October 17, 2002” for “24 months of March 14, 1995”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of Education and Examination Ex-

emption for Respiratory Care Practitioners Temporary Amendment Act of 2002(D.C. Law 14-142, May 21, 2002, law notification 49 DCR 5059).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Education and Examination Exemption for Respiratory Care Practitioners Emergency

Amendment Act of 2002 (D.C. Act 14-280, February 25, 2002, 49 DCR 2293).

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 14-197. — For Law 14-197, see notes following § 3-1207.21.

§ 3-1207.23. Eligibility for license renewal.

Applicants licensed under the waiver provisions of this subchapter shall be eligible for license renewal on the same terms as all other licensed respiratory care practitioners.

(Mar. 25, 1986, D.C. Law 6-99, § 722, as added Mar. 14, 1995, D.C. Law 10-203, § 2(h), 41 DCR 7707.)

Prior Codifications. — 1981 Ed., § 2-3307.23.

Legislative history of Law 10-203. — For

legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Subchapter VII-C. Waiver of Licensure Requirements for Massage Therapists.

§ 3-1207.31. Waiver of licensure requirements — Demonstration of performance. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 730, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(e), 43 DCR 530; July 7, 2009, D.C. Law 18-17, § 2(c), 56 DCR 3622.)

Prior Codifications. — 1981 Ed., § 2-3307.31.

Legislative history of Law 10-205. — Law 10-205, the “Qualified Massage Therapists Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-540, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on October 4, 1994, and November 1, 1994, respectively. Signed by

the Mayor on November 22, 1994, it was assigned Act No. 10-343 and transmitted to both Houses of Congress for its review. D.C. Law 10-205 became effective on March 14, 1995.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 18-17. — For Law 18-17, see notes following § 3-1201.02.

§ 3-1207.32. Waiver of licensure requirements — Meeting educational requirements. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 731, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712; Apr. 18, 1996, D.C. Law 11-110, § 7(f), 43 DCR 530; July 7, 2009, D.C. Law 18-17, § 2(c), 56 DCR 3622.)

Prior Codifications. — 1981 Ed., § 2-3307.32.

Legislative history of Law 10-205. — For

legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

§ 3-1207.33 DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 18-17. — For Law 18-17, see notes following § 3-1201.02.

§ 3-1207.33. Eligibility for license renewal. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 732, as added Mar. 14, 1995, D.C. Law 10-205, § 2(f), 41 DCR 7712; July 7, 2009, D.C. Law 18-17, § 2(c), 56 DCR 3622.)

Prior Codifications. — 1981 Ed., § 2-3307.33.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see His-

torical and Statutory Notes following § 3-1207.31.

Legislative history of Law 18-17. — For Law 18-17, see notes following § 3-1201.02.

Subchapter VII-D. Pharmaceutical Detailers; Scope of Practice; Qualifications for Licensure; Waiver of Licensure Requirements; Continuing Education; Penalties.

§ 3-1207.41. Scope of practice.

(a) An individual shall be licensed by the Board of Pharmacy before engaging in the practice of pharmaceutical detailing in the District of Columbia.

(b) A pharmaceutical detailer shall not:

(1) Engage in any deceptive or misleading marketing of a pharmaceutical product, including the knowing concealment, suppression, omission, misleading representation, or misstatement of any material fact;

(2) Use a title or designation that might lead a licensed health professional, or an employee or representative of a licensed health professional, to believe that the pharmaceutical detailer is licensed to practice medicine, nursing, dentistry, optometry, pharmacy, or other similar health occupation, in the District of Columbia, unless the pharmaceutical detailer currently holds such a license; or

(3) Attend patient examinations without the consent of the patient.

(Mar. 25, 1986, D.C. Law 6-99, § 741, as added Mar. 26, 2008, D.C. Law 17-131, § 102(g), 55 DCR 1659.)

Legislative history of Law 17-131. — Law 17-131, the “SafeRx Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-364 which was referred to the Committee on Health. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 1, 2008, it was assigned Act No. 17-282 and transmitted to both Houses of Congress for its review. D.C. Law 17-131 became effective on March 26, 2008.

Delegation of Authority. — Delegation of Authority pursuant to D.C. Law 17-131, the SafeRX Amendment Act of 2008, see Mayor’s Order 2008-83, June 11, 2008 (55 DCR 9360).

Delegation of Authority pursuant to D.C. Law 17-131, the SafeRX Amendment Act of 2008, see Mayor’s Order 2008-94, July 3, 2008 (55 DCR 9375).

§ 3-1207.42. Qualifications for licensure.

In addition to the general qualifications for licensure set forth in this chapter, an individual applying for a license to practice pharmaceutical detailing shall:

- (1) Establish, to the satisfaction of the Board of Pharmacy, that he or she is a graduate of a recognized institution of higher education;
- (2) Pay the required licensure fee; and
- (3) Submit to the Board of Pharmacy a notarized statement that he or she understands and agrees to abide by the requirements for the practice of pharmaceutical detailing, including the code of ethics, as established by the Board pursuant to § 3-1202.08 and in accordance with this subchapter.

(Mar. 25, 1986, D.C. Law 6-99, § 742, as added Mar. 26, 2008, D.C. Law 17-131, § 102(g), 55 DCR 1659.)

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1207.41.

§ 3-1207.43. Waiver of licensure requirements.

The Board of Pharmacy shall waive the educational requirements for an applicant for licensure as a pharmaceutical detailer who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a pharmaceutical detailer, as defined in this subchapter, on a full-time, or substantially full-time, basis for at least 12 months immediately preceding March 26, 2008.

(Mar. 25, 1986, D.C. Law 6-99, § 743, as added Mar. 26, 2008, D.C. Law 17-131, § 102(g), 55 DCR 1659.)

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1207.41.

§ 3-1207.44. Continuing education.

The Mayor shall establish by rule continuing-education requirements as a condition for renewal of the license to practice pharmaceutical detailing.

(Mar. 25, 1986, D.C. Law 6-99, § 744, as added Mar. 26, 2008, D.C. Law 17-131, § 102(g), 55 DCR 1659.)

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1207.41.

§ 3-1207.45. Penalties.

In addition to the penalties set forth in this chapter, a person who practices pharmaceutical detailing without a license shall be subject to a fine of up to \$10,000.

(Mar. 25, 1986, D.C. Law 6-99, § 745, as added Mar. 26, 2008, D.C. Law 17-131, § 102(g), 55 DCR 1659.)

Cross references. — Licensing of health professionals, general qualifications of applicants, see § 3-1205.03.

Legislative history of Law 17-131. — For Law 17-131, see notes following § 3-1207.41.

Subchapter VIII. Categories and Qualification of Social Workers.

§ 3-1208.01. Licensed social work associate.

(a) The Board of Social Work shall license as a social work associate a person who, in addition to meeting the requirements of subchapter V of this chapter, has a baccalaureate degree (“B.S.W.”) from a social work program accredited by the Council of Social Work Education, and has satisfactorily completed the examination process at the associate level.

(b) A licensed social work associate (“L.S.W.A.”) may perform case work, group work, and community organization services under the supervision of a social worker licensed under § 3-1208.03 or § 3-1208.04.

(Mar. 25, 1986, D.C. Law 6-99, § 801, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3308.1.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1208.02. Licensed graduate social worker.

(a) The Board of Social Work shall license as a graduate social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master’s degree or a doctorate from a social work program accredited by the Council on Social Work Education, and has satisfactorily completed the examination process at the graduate level.

(b) A licensed graduate social worker (“L.G.S.W.”) may perform any function described as the practice of social work in this chapter, other than psychotherapy, under the supervision of a social worker licensed under § 3-1208.03 or § 3-1208.04, and may perform psychotherapy under the supervision of a social worker licensed under § 3-1208.04.

(Mar. 25, 1986, D.C. Law 6-99, § 802, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3308.2.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1208.03. Licensed independent social worker.

(a) The Board of Social Work shall license as an independent social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master’s degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent level, and has at least 3,000 hours post-master’s or postdoctoral experience under the supervision of a

licensed independent social worker over a period of not less than 2 or more than 4 years.

(b) A licensed independent social worker ("L.I.S.W.") may perform any function described as the practice of social work in this chapter, other than the diagnosis or treatment (including psychotherapy) of psychosocial problems, in an autonomous, self-regulated fashion, in an agency setting or independently, and may direct other persons in the performance of these functions.

(Mar. 25, 1986, D.C. Law 6-99, § 803, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3308.3. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1208.04. Licensed independent clinical social worker.

(a) The Board of Social Work shall license as an independent clinical social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent clinical level, and has at least 3,000 hours of post-master's or postdoctoral experience participating in the diagnosis and treatment of individuals, families, and groups with psychosocial problems, under the supervision of a licensed independent clinical social worker over a period of not less than 2 years or more than 4 years; under special circumstances approved by the Board, supervision by a licensed psychiatrist or psychologist may be substituted for up to 1500 hours of this requirement.

(b) A licensed independent clinical social worker ("L.I.C.S.W.") may perform any function described as the practice of social work in this chapter, in an autonomous, self-regulated fashion, in an agency setting or independently, and may supervise other persons in the performance of these functions. A licensed independent clinical social worker shall not engage in the practice of medicine and shall refer patience or clients with apparent medical problems to an appropriate and qualified medical practitioner.

(Mar. 25, 1986, D.C. Law 6-99, § 804, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3308.4. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1208.05. Transition.

For a period of 2 years following March 25, 1986, all references in this subchapter to supervision by licensed social workers shall be deemed to refer to supervision by persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact.

(Mar. 25, 1986, D.C. Law 6-99, § 805, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3308.5. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1208.06. Waiver of requirements.

(a) The Board of Social Work shall waive the educational and examination requirements for any applicant for licensure as a social worker who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a social worker, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(b) The Board of Social Work shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a social worker, has practiced as a social worker or as a social work administrator, whether full time or not, within a 3-year period immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed social workers.

(Mar. 25, 1986, D.C. Law 6-99, § 806, 33 DCR 729; July 25, 1987, D.C. Law 7-20, § 2(b), 34 DCR 3814; Mar. 11, 1988, D.C. Law 7-87, § 2(b), 35 DCR 162.)

Prior Codifications. — 1981 Ed., § 2-3308.6.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of District of Columbia Health Occupations Revision Act of 1985 Temporary Amendment Act of 1987 (D.C. Law 7-20, July 25, 1987, law notification 34 DCR 5251).

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-87. — For legislative history of D.C. Law 7-87, see Historical and Statutory Notes following § 3-1207.02.

Editor's notes. — In subsection (c), "section" was substituted for "subsection," to correct an error in D.C. Law 6-99.

Subchapter VIII-A. Qualifications for Licensure to Practice Marriage and Family Therapy; Transition of Licensed Marriage and Family Therapists.

§ 3-1208.31. Qualifications for licensure.

(a) The Board of Marriage and Family Therapy shall license as a marriage and family therapist a person who, in addition to meeting the requirements of subchapter V of this chapter [§ 3-1205.01 et seq.] and any requirements the Mayor may establish by rule, has:

- (1) Satisfactorily completed the examination process;
- (2) A Master's degree or a Doctoral degree in marriage and family therapy

from a recognized educational institution, or a graduate degree in an allied field from a recognized educational institution and has successfully completed graduate level course work which is equivalent to a Masters' degree in marriage and family therapy, as determined by the Board; and

(3) Successfully completed 2 calendar years of work experience in marriage and family therapy under qualified supervision following receipt of a qualifying degree.

(b) For the purposes of subsection (a) of this section, qualifying degrees shall meet the following requirements:

(1) A graduate degree which consists of at least 60 semester hours or 90 quarter credits in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the Board; and

(2) The course of study for any graduate degree shall include a minimum of 39 semester credits in the following areas:

(A) Marriage and family studies — 9 semester credit minimum. Studies in this area shall include:

(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;

(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and

(iii) Preventative approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems;

(B) Marriage and family therapy — 9 semester credit minimum. Studies in this area shall include:

(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and

(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues, including socioeconomic disadvantage, abuse, and addiction;

(C) Human development — 9 semester credit minimum. Studies in this area shall include:

(i) Individual development and transitions across the life span;

(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, gender identity or expression, social and equity issues, and disability;

(iii) Human sexual development, function and dysfunction, impacts

on individuals, couples, and families, and strategies for intervention and resolution; and

(iv) Issues of violence, abuse, and substance use in a relational context, and strategies for intervention and resolution;

(D) Psychological and mental health competency — 6 semester credit minimum. Studies in this area shall include:

(i) Psychopathology, including etiology, assessment, evaluation, and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis, and multiaxial diagnosis;

(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and

(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, and families;

(E) Professional ethics and identity — 3 semester credit minimum. Studies in this area shall include:

(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings, and collaboration with other disciplines;

(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, record keeping, family law, confidentiality issues, and the relevant codes of ethics, including the code of ethics specified by the Board; and

(iii) The interface between therapist responsibility and the professional, social, and political context of treatment; and

(F) Research — 3 semester credit minimum. Studies in this area shall include:

(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and

(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics, and legal considerations of conducting research, and evaluation of research.

(c) To be eligible for licensure as a marriage and family therapist, a person must complete 2 years of post-graduate, clinical work experience in marriage and family therapy and supervision in accordance with the following established membership standards:

(1) Supervised clinical experience must follow receipt of the first qualifying graduate degree and the practicum required as part of the course of study;

(2) Supervision must be provided by supervisors approved by the American Association for Marriage and Family Therapy or supervisors of acceptance to the Board; and

(3) Successful completion of at least 1000 hours of face-to-face contact with couples and families for the purpose of assessment and intervention, and 200 hours of supervision of marriage and family therapy, at least 100 of which are individual supervision.

(Mar. 25, 1986, D.C. Law 6-99, § 831, 33 DCR 729, as added Mar. 10, 2004,

D.C. Law 15-88, § 2(i), 50 DCR 10999; June 25, 2008, D.C. Law 17-177, § 6(b), 55 DCR 3696.)

Effect of amendments. — D.C. Law 17-177, in subsec. (b)(2)(C)(ii), substituted “sexual orientation, gender identity or expression” for “sexual orientation”.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 17-177. — For Law 17-177, see notes following § 3-1201.01.

§ 3-1208.32. Transition of licensed marriage and family therapists.

For a period of 2 years following March 10, 2004, all reference to a licensed marriage and family therapist shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed.

(Mar. 25, 1986, D.C. Law 6-99, § 831.02, 33 DCR 729, as added Mar. 10, 2004, D.C. Law 15-88, § 2(i), 50 DCR 10999.)

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Subchapter VIII-B. Qualifications for Licensure to Practice Audiology and Speech-Language Pathology.

§ 3-1208.41. Qualifications for licensure.

(a) The Board of Audiology and Speech-Language Pathology shall license as an audiologist a person who, in addition to meeting the requirements of subchapter V of this chapter, has:

(1) Graduated with a Master’s degree or a Doctoral degree in audiology from a recognized educational institution that incorporates the academic course work and minimum hours of supervised training required by the regulations adopted by the Board and whose audiology program is regionally accredited by the American Speech-Language-Hearing Association or an equivalent accrediting body;

(2) Passed a qualifying examination given by the Board or from an accrediting body recognized by the Board; and

(3) Completed a period of supervised postgraduate professional practice in audiology as specified by rulemaking issued by the Board.

(b) The Board of Audiology and Speech-Language Pathology shall license as a speech-language pathologist a person who, in addition to meeting the requirements of subchapter V of this chapter, has:

(1) Graduated with a Master’s degree or Doctoral degree in speech-language pathology from a recognized educational institution that incorporates the academic course work and minimum hours of supervised training required by the regulations adopted by the Board and whose speech-language pathology program is regionally accredited by the American Speech-Language-Hearing Association or an equivalent accrediting body;

(2) Passed a qualifying examination given by the Board or from an accrediting body recognized by the Board; and

(3) Completed a period of supervised postgraduate professional practice in speech-language pathology as specified by rulemaking issued by the Board.

(c) An audiology or speech-language pathology license shall be renewable every 2 years by the Board.

(Mar. 25, 1986, D.C. Law 6-99, § 841, as added Mar. 6, 2007, D.C. Law 16-219, § 2(g), 53 DCR 10211.)

Legislative history of Law 16-219. — Law 16-219, the “Audiology and Speech-Language Pathology Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-435, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006; respectively. Signed by the

Mayor on December 19, 2006, it was assigned Act No. 16-548 and transmitted to both Houses of Congress for its review. D.C. Law 16-219 became effective on March 6, 2007.

Editor’s notes. — D.C. Law 17-353 validated a previously made technical correction in the heading of this subchapter.

Subchapter VIII-C. Categories and Qualifications of Addiction Counselors.

§ 3-1208.51. Certified addiction counselor I.

(a) The Board of Professional Counseling shall certify as an addiction counselor I a person who, in addition to meeting the requirements of subchapter V of this chapter [§ 3-1205 et seq.]:

(1)(A) Has met the educational requirements of graduating with at least an associate’s degree in health or human services from an accredited institution that incorporates the academic course work and minimum hours of supervised training required by the regulations adopted by the Board and whose program is accredited by an agency recognized by the U.S. Department of Education; or

(B) Has at least 2 years of documented, supervised experience in the field of addiction counseling; and

(2) Passed a national examination approved by the Board.

(b) A certified addiction counselor I shall practice addiction counseling under the supervision of an authorized health-care professional.

(Mar. 25, 1986, D.C. Law 6-99, § 851, as added July 7, 2009, D.C. Law 18-13, § 2(e), 56 DCR 3608.)

Legislative history of Law 18-13. — Law 18-13, the “Practice of Professional Counseling and Addiction Counseling Amendment Act of 2009”, was introduced in Council and assigned Bill No. 18-34 which was referred to the Committee on Health. The Bill was adopted on first

and second readings on March 3, 2009, and April 7, 2009, respectively. Signed by the Mayor on April 28, 2009, it was assigned Act No. 18-57 and transmitted to both Houses of Congress for its review. D.C. Law 18-13 became effective on July 7, 2009.

§ 3-1208.52. Certified addiction counselor II.

(a) The Board of Professional Counseling shall certify as an addiction

counselor II a person who, in addition to meeting the requirements of subchapter V of this chapter [§ 3-1205 et seq.]:

(1)(A) Has met the educational requirements of graduating with at least a bachelor's degree in health or human services from an accredited institution that incorporates the academic course work and minimum hours of supervised training required by the regulations adopted by the Board and whose program is accredited by an agency recognized by the U.S. Department of Education; or

(B) Has at least 5 years of documented experience in the field of addiction counseling; and

(2) Passed a national examination approved by the Board.

(b) A certified addiction counselor II shall practice addiction counseling under the supervision of an authorized health-care professional.

(Mar. 25, 1986, D.C. Law 6-99, § 852, as added July 7, 2009, D.C. Law 18-13, § 2(e), 56 DCR 3608.)

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.51.

§ 3-1208.53. Advanced practice addiction counselor.

The Board of Professional Counseling shall license as an advanced practice addiction counselor a person who, in addition to meeting the requirements of subchapter V of this chapter [§ 3-1205 et seq.]:

(1) Has met the educational requirements of graduating with at least a master's or doctorate degree in health or human services from an accredited institution that incorporates the academic course work and minimum hours of supervised training adopted by the Board and whose program is accredited by an agency recognized by the U.S. Department of Education; and

(2) Passed a national examination approved by the Board.

(Mar. 25, 1986, D.C. Law 6-99, § 853, as added July 7, 2009, D.C. Law 18-13, § 2(e), 56 DCR 3608.)

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.51.

§ 3-1208.54. Waiver of requirements.

(a) The Board of Professional Counseling shall waive the educational and examination requirements for any applicant for certification who can demonstrate to the satisfaction of the Board that he or she has been performing the function of an addiction counselor I, as defined in § 3-1208.51, on a full-time or substantially full-time basis continually for at least 24 months immediately preceding July 7, 2009, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence; provided, that the application is made within 24 months of July 7, 2009.

(b) The Board of Professional Counseling shall waive the educational and examination requirements for any applicant for certification who can demonstrate to the satisfaction of the Board, that he or she has been performing the

function of an addiction counselor II, as defined in § 3-1208.52, on a full-time or substantially full-time basis continually for at least 60 months immediately preceding July 7, 2009, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence; provided, that the application is made within 24 months of July 7, 2009.

(Mar. 25, 1986, D.C. Law 6-99, § 854, as added July 7, 2009, D.C. Law 18-13, § 2(e), 56 DCR 3608.)

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.51.

Subchapter IX. Related Occupations; Registration Requirements; Prohibited Actions.

§ 3-1209.01. Naturopathy. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 901, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(x), 42 DCR 457; July 8, 2004, D.C. Law 15-172, § 2(h), 51 DCR 4938; Apr. 13, 2005, D.C. Law 15-354, § 11, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 18, 53 DCR 6794; Mar. 25, 2009, D.C. Law 17-353, §§ 131(a), 188(c), 56 DCR 1117; July 7, 2009, D.C. Law 18-19, 2(c), 56 DCR 3629e.)

Prior Codifications. — 1981 Ed., § 2-3309.1.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 3-505.

Legislative history of Law 16-191. — For Law 16-191, see notes following § 3-326.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-19. — For Law 18-19, see notes following § 3-1201.02.

§ 3-1209.02. Dance and recreation therapy.

(a) Any person who practices or offers to practice dance therapy or recreation therapy in the District shall register with the Mayor on forms prescribed by the Mayor, reregister at intervals the Mayor may require by rule, and pay the registration fee established by the Mayor.

(b) A person registered to practice dance therapy or recreation therapy may employ the theories and techniques of the profession, in accordance with appropriate ethical requirements, to aid in the restoration and rehabilitation of mental and physical functions.

(c) The Mayor shall, by rule, set forth standards of education and experience required to qualify for registration as a dance therapist or recreation therapist and, in doing so, may adopt the standards of the recognized national professional associations of dance therapists or recreation therapists.

(Mar. 25, 1986, D.C. Law 6-99, § 902, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3309.2.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1209.03. Registered acupuncture therapist.

(a) For the purposes of this section, “registered acupuncture therapist” means a person who has successfully completed a program in acupuncture therapy approved by the Advisory Committee on Acupuncture and the Board of Medicine for the specific purpose of treating drug and alcohol abuse in a clinical setting and who does not otherwise possess the credentials or qualifications for the practice of acupuncture as required by § 3-1205.04.

(b) A person who is engaged as an acupuncture therapist in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(c) Any person registered to practice as an acupuncture therapist shall practice under the direct collaboration of a person licensed to practice acupuncture or a physician licensed to practice acupuncture.

(d) The Mayor, in accordance with the provisions of subchapter I of Chapter 5 of Title 2, shall issue rules setting forth the standards of education and experience required to qualify for registration as an acupuncture therapist.

(Mar. 25, 1986, D.C. Law 6-99, § 903, as added Mar. 20, 1992, D.C. Law 9-77, § 2, 39 DCR 669.)

Prior Codifications. — 1981 Ed., § 2-3309.3.

Legislative history of Law 9-77. — Law 9-77, the “Health Occupations Revision Act of 1985 Acupuncture Practice Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-18, which was referred to the Committee on Consumer and Regulatory Affairs.

The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-134 and transmitted to both Houses of Congress for its review. D.C. Law 9-77 became effective on March 20, 1992.

§ 3-1209.04. Addiction counselor. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 904, as added July 22, 1992, D.C. Law 9-126, § 2(h), 39 DCR 3824; July 7, 2009, D.C. Law 18-13, § 2(f), 56 DCR 3608.)

Prior Codifications. — 1981 Ed., § 2-3309.4.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see His-

torical and Statutory Notes following § 3-1202.13.

Legislative history of Law 18-13. — For Law 18-13, see notes following § 3-1201.51.

§ 3-1209.05. Dental assistant.

(a) For the purposes of this section, the term:

(1) “Dental assistant” means a person who is registered by the Board of Dentistry and is authorized to assist a licensed dentist in the performance of duties related to oral care under the direct supervision of a dentist.

(2) “Direct supervision” means the dentist is in the dental office or

treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures, remains in the dental office or treatment facility while the procedures are being performed by the dental assistant, and personally evaluates the performance of the dental assistant before dismissal of the patient.

(b) A person who is engaged as a dental assistant in the District of Columbia shall be registered with the Board, renew the registration as required by rule, and pay the required registration fee established by the Board.

(c) A dental assistant shall wear a name tag bearing the title “dental assistant” while acting in a professional capacity and display his or her current registration in a conspicuous place in the dental office in which he or she is employed.

(d) A person shall not engage in the practice, or use the title, of dental assistant unless he or she is registered to practice as a dental assistant under this chapter and practices under the direct supervision of a dentist licensed under this chapter. Unless authorized by the Board to perform duties related to oral care in the District, an individual shall not be permitted to perform any clinical duties or engage in any physical patient contact.

(e) For a period of one year following July 7, 2009, unless further time is granted by the Board through rulemaking, persons who have received appropriate training for the tasks assigned may practice as a dental assistant.

(f) A dentist may delegate duties to a dental assistant that are appropriate to the training and experience of the dental assistant and within the scope of practice of the supervising dentist; provided, that the dentist shall not delegate to a dental assistant any task or function identified, through rulemaking, as a task or function that shall not be delegated.

(g) The Mayor shall issue rules necessary to implement the provisions of this section, including the standards of education and experience required to qualify as a registered dental assistant and the duties that may be performed by a dental assistant.

(Mar. 25, 1986, D.C. Law 6-99, § 905, as added July 7, 2009, D.C. Law 18-15, § 2(e), 56 DCR 3616.)

Legislative history of Law 18-15. — For Law 18-15, see notes following § 3-1201.01.

§ 3-1209.06. Psychology associate.

(a) A person who is engaged as a psychology associate in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(b) A person registered to practice as a psychology associate may provide psychological services and activities while under the direct supervision of a psychiatrist, or a licensed psychologist with a doctoral degree in psychology.

(c) A psychology associate shall have graduated from an accredited college or university with at least a Master’s degree based on a program of studies primarily focusing on psychology, or a program judged by the Board to be

substantially equivalent in subject matter and extent of training to a master's or doctoral degree in psychology.

(d) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules further setting forth the education and experience needed to qualify as a psychology associate.

(Mar. 25, 1986, D.C. Law 6-99, § 906, as added July 7, 2009, D.C. Law 18-14, § 2(e), 56 DCR 3613.)

Legislative history of Law 18-14. — For Law 18-14, see notes following § 3-1201.02.

§ 3-1209.07. Nursing assistive personnel.

(a) Persons who are engaged as nursing assistive personnel in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(b) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules setting forth the standards of education and experience required to qualify as nursing assistive personnel.

(Mar. 25, 1986, D.C. Law 6-99, § 907, as added July 7, 2009, D.C. Law 18-18, § 2(f), 56 DCR 3624.)

Legislative history of Law 18-18. — For Law 18-18, see notes following § 3-1201.02.

Subchapter X. Prohibited Acts; Penalties; Injunctions.

§ 3-1210.01. Practicing without license, registration, or certification.

No person shall practice, attempt to practice, or offer to practice a health occupation licensed, registered, certified, or regulated under this chapter in the District unless currently licensed, registered, or certified, or exempted from licensure, registration, or certification, under this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 1001, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(g), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3310.1.

Effect of amendments. — D.C. Law 18-26 rewrote the section, which had read as follows: “No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter in the District unless currently licensed, or exempted from licensing, under this chapter.”

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(g) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1210.02. Misrepresentation.

Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the District.

(Mar. 25, 1986, D.C. Law 6-99, § 1002, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3310.2. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

CASE NOTES

In general.

Letters from physician to Board of Medicine in which physician, who was not licensed in District of Columbia, attached “M.D.” to his name and title did not establish that physician was representing that he practiced medicine or was authorized to practice health occupation, as would have violated statutory prohibitions; letters were relaying results of peer investiga-

tions and evaluations by licensed medical consultants to insurance company which employed physician, and did not reasonably support finding that physician meant to endorse recommendations of consultants as representing his own diagnosis of questioned conduct. D.C. Code 1981, §§ 2-3310.2, 2-3310.3(g). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

§ 3-1210.03. Certain representations prohibited.

(a) Unless authorized to practice acupuncture under this chapter, a person shall not use or imply the use of the words or terms “acupuncture,” “acupuncturist,” or any similar title or description of services with the intent to represent that the person practices acupuncture.

(b) Unless authorized to practice as an advanced practice registered nurse under this chapter, a person shall not use or imply the use of the words or terms “advanced practice registered nurse”, “A.P.R.N.”, “certified registered nurse anesthetist”, “C.R.N.A.”, “certified nurse midwife”, “C.N.M.”, “clinical nurse specialist”, “C.N.S.”, “nurse practitioner”, “N.P.”, or any similar title or description of services with the intent to represent that the person practices advanced registered nursing.

(c) Unless authorized to practice chiropractic under this chapter, a person shall not use or imply the use of the words or terms “chiropractic,” “chiropractic physician,” “chiropractic orthopedist,” “chiropractic neurologist,” “chiropractic radiologist,” “chiropractor,” “Doctor of Chiropractic,” “D.C.”, or any similar title or description of services with the intent to represent that the person practices chiropractic.

(d) Unless authorized to practice dentistry under this chapter, a person shall not use or imply the use of the words or terms “dentistry,” “dentist,” “D.D.S.”, “D.M.D.”, “endodontist,” “oral surgeon,” “maxillofacial surgeon,” “oral pathologist,” “orthodontist,” “pedodontist,” “periodontist,” “prosthodontist,” “public health dentist,” or any similar title or description of services with the intent to represent that the person practices dentistry.

(e) Unless authorized to practice dentistry or dental hygiene under this chapter, a person shall not use or imply the use of the words or terms “dental

hygiene,” “dental hygienist,” or similar title or description of services with the intent to represent that the person practices dental hygiene.

(f) Unless authorized to practice dietetics or nutrition under this chapter, a person shall not use or imply the use of the words or terms “dietitian/nutritionist,” “licensed dietitian,” “licensed nutritionist,” “dietitian,” “nutritionist,” “L.D.N.,” “L.D.,” “L.N.,” or any similar title or description of services with the intent to represent that the person practices dietetics or nutrition.

(g) Unless authorized to practice medicine under this chapter, a person shall not use or imply the use of the words or terms “physician,” “surgeon,” “medical doctor,” “doctor of osteopathy,” “M.D.,” “anesthesiologist,” “cardiologist,” “dermatologist,” “endocrinologist,” “gastroenterologist,” “general practitioner,” “gynecologist,” “hematologist,” “internist,” “laryngologist,” “nephrologist,” “neurologist,” “obstetrician,” “oncologist,” “ophthalmologist,” “orthopedic surgeon,” “orthopedist,” “osteopath,” “otologist,” “otolaryngologist,” “otorhinolaryngologist,” “pathologist,” “pediatrician,” “primary care physician,” “proctologist,” “psychiatrist,” “radiologist,” “rheumatologist,” “rhinologist,” “urologist,” or any similar title or description of services with the intent to represent that the person practices medicine.

(h) Unless authorized to practice nursing home administration under this chapter, a person shall not use the words or terms “nursing home administration,” “nursing home administrator,” “N.H.A.,” or any similar title or description of services with the intent to represent that the person practices nursing home administration.

(i) Unless authorized to practice occupational therapy under this chapter, a person shall not use the words or terms “occupational therapy,” “occupational therapist,” “licensed occupational therapist,” “O.T.,” “O.T.R.,” “L.O.T.,” “O.T.R/L.,” or any similar title or description of services with the intent to represent that the person practices occupational therapy.

(j) Unless authorized to practice as an occupational therapy assistant under this chapter, a person shall not use the words or terms “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant,” “O.T.A.,” “L.O.T.A.,” “C.O.T.A.,” “O.T.A.L.,” or any similar title or description of services with the intent to represent that the person practices as an occupational assistant.

(k) Unless authorized to practice optometry under this chapter, a person shall not use the words or terms “optometry,” “optometrist,” “Doctor of Optometry,” “contactologist,” “O.D.,” or any similar title or description of services with the intent to represent that the person practices optometry.

(l) Unless authorized to practice pharmacy under this chapter, a person shall not use the words or terms “pharmacy,” “pharmacist,” “druggist,” “registered pharmacist,” “R.Ph.,” “Ph.G.,” or any similar title or description of services with the intent to represent that the person practices pharmacy.

(m) Unless authorized to practice physical therapy under this chapter, a person shall not use the words or terms “physical therapy,” “physical therapist,” “physiotherapist,” “physical therapy technician,” “P.T.,” “L.P.T.,” “R.P.T.,” “P.T.T.,” or any similar title or description of services with the intent to represent that the person practices physical therapy.

(m-1) Unless authorized to practice as a physical therapy assistant under this chapter, a person shall not use or imply the use of the words or terms “physical therapy assistant”, “licensed physical therapy assistant”, “certified physical therapy assistant”, “P.T.A.”, “L.P.T.A.”, “C.P.T.A.”, or any similar title or description of services with the intent to represent that the person practices as a physical therapy assistant.

(n) Unless authorized to practice as a physician assistant under this chapter, a person shall not use or imply the use of the words or terms “physician assistant,” “P.A.”, “surgeon’s assistant,” or any similar title or description of services with the intent to represent that the person practices as a physician assistant.

(o) Unless authorized to practice podiatry under this chapter, a person shall not use the words or terms “podiatry,” “podiatrist,” “podiatric,” “foot specialist,” “foot correctionist,” “foot expert,” “practipedist,” “podologist,” “D.P.M.”, or any similar title or description of services with the intent to represent that the person practices podiatry.

(p) Unless authorized to practice practical nursing under this chapter, a person shall not use the words or terms “practical nurse,” “licensed practical nurse,” “L.P.N.”, or any similar title or description of services with the intent to represent that the person practices practical nursing.

(q) Unless authorized to practice psychology under this chapter, a person shall not use the words or terms “psychology,” “psychologist”, “psychology associate”, or similar title or description of services with the intent to represent that the person practices psychology.

(r) Unless authorized to practice registered nursing under this chapter, a person shall not use the words or terms “registered nurse,” “certified nurse,” “graduate nurse,” “trained nurse,” “R.N.”, or any similar title or description of services with the intent to represent that the person practices registered nursing.

(s) Unless authorized to practice social work under this chapter, a person shall not use the words or terms “social worker,” “clinical social worker,” “graduate social worker,” “independent social worker,” “licensed independent social worker,” “L.I.S.W.”, “licensed independent clinical social worker,” “L.I.C.S.W.”, or any similar title or description of services with the intent to represent that the person practices social work.

(t) Unless authorized to practice professional counseling pursuant to this chapter, a person shall not use the phrase “licensed professional counselor” or “licensed graduate professional counselor”, or any similar title or description of services with the intent to represent that the person practices professional counseling. Nothing in this subsection shall restrict the use of the generic terms “counseling” or “counselor”.

(u) Unless authorized to practice respiratory care pursuant to this chapter, a person shall not use the phrase “licensed respiratory care practitioner” or any similar title or description of services with the intent to represent that the person is a respiratory care practitioner.

(v) Unless authorized to practice massage therapy under this chapter, a person shall not use or imply the use of the words or terms “massage therapy”,

“therapeutic massage”, “myotherapy”, “bodyrub”, or similar title or description of services, or the initials “LMT”, with the intent to represent that the person practices massage.

(w) Unless authorized to practice marriage and family therapy under this chapter, a person shall not use or imply the use of the words or terms “marriage and family therapist” or “MFT”, or any similar title or description of services, with the intent to represent that the person practices marriage and family therapy.

(x) Unless authorized to practice naturopathic medicine under this chapter, a person shall not use the words or terms “Doctor of Naturopathic Medicine”, “Naturopathic Physician”, “Licensed Naturopath”, “Naturopathic Doctor”, “Doctor of Naturopathy”, “ND”, or “NMD”, or any similar title or description of services, with the intent to represent that the person practices naturopathic medicine.

(y) Unless authorized to practice as an anesthesiologist assistant under this chapter, a person shall not use or imply the use of the words or terms “anesthesiologist assistant,” or “A.A.”, or any similar title or description of services with the intent to represent that the person practices as an anesthesiologist assistant.

(z) Unless authorized to practice audiology or speech-language pathology pursuant to this chapter, a person shall not advertise the performance of audiology or speech-language; use a title or description such as “audiological,” “audiologist,” “audiology,” “hearing clinic,” “hearing clinician,” “hearing or aural rehabilitation,” “hearing specialist,” “communication disorders,” “communicologist,” “language pathologist,” “logopedist,” “speech and language clinician,” “speech and language therapist,” “speech clinic,” “speech clinician,” “speech correction,” “speech correctionist,” “speech pathology,” “speech-language pathology,” “speech therapist,” or “speech therapy,” or any other name, style, or description denoting that the person is an audiologist or speech-language pathologist or practicing audiology or speech-language pathology.

(aa) Unless authorized to practice as a surgical assistant under this chapter, a person shall not use or imply the use of the words or terms “surgical assistant,” or “S.A.”, or any similar title or description of services with the intent to represent that the person practices as a surgical assistant.

(bb) Unless authorized to practice addiction counseling under this chapter, a person shall not use or imply the use of the words or terms “addiction counselor”, “licensed addiction counselor”, “supervised addiction counselor”, “certified addiction counselor I”, “certified addiction counselor II”, “advanced practice addiction counselor”, “C.A.C.I.”, “C.A.C.II.”, “A.P.A.C.”, or any similar title or description of services with the intent to represent that the person practices as an addiction counselor.

(cc) Unless authorized to practice as nursing assistive personnel under this chapter, a person shall not use or imply the use of the words or terms “nursing assistant,” “home health aide,” “trained medication employee,” “dialysis technician,” “health aide,” or any similar title or description of services with the intent to represent that the person practices as a member of nursing assistive personnel.

(dd) Unless authorized to practice polysomnography under this chapter, a person shall not use or imply the use of the words or terms “polysomnographic technologist”, “registered polysomnographic technologist”, “licensed polysomnographic technologist”, “RPSGT”, “LPSGT”, “polysomnographic technician”, “polysomnographic trainee”, or any similar title or description of services with the intent to represent that the person practices polysomnography.

(Mar. 25, 1986, D.C. Law 6-99, § 1003, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(i), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(g), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(g), 41 DCR 7712; Mar. 23, 1995, D.C. Law 10-247, § 2(y), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 7(g), 43 DCR 530; March 10, 2004, D.C. Law 15-88, § 2(j), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(i), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(i), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-219, § 2(h), 53 DCR 10211; Mar. 6, 2007, D.C. Law 16-220, § 2(e), 53 DCR 10216; Mar. 6, 2007, D.C. Law 16-228, § 2(j), 53 DCR 10244; Mar. 25, 2009, D.C. Law 17-353, § 151, 56 DCR 1117; July 7, 2009, D.C. Law 18-19, § 2(d), 56 DCR 3629; July 18, 2009, D.C. Law 18-26, § 2(h), 56)

Prior Codifications. — 1981 Ed., § 2-3310.3.

Effect of amendments. — D.C. Law 15-88 added subsec. (w).

D.C. Law 15-172 added subsec. (x).

D.C. Law 15-237 added subsec. (y).

D.C. Law 16-219, added subsec. (z).

D.C. Law 16-220, added subsec. (m-1).

D.C. Law 16-228, added subsec. (aa).

D.C. Law 17-353 validated a previously made technical correction in subsec. (aa).

D.C. Law 18-19, in subsec. (x), deleted the last sentence, which had read as follows: “Nothing in this subsection shall be construed as prohibiting a person registered to practice naturopathy or naturopathic healing under § 3-1209.01 from using the terms “Naturopath” or “Registered Naturopath”.

D.C. Law 18-26 rewrote subsec. (c); in subsec. (i), inserted “O.T.R/L.”; in subsec. (j), inserted “O.T.A.L.”; in subsec. (q), inserted “psychology associate”; in subsec. (t), inserted “or licensed graduate professional counselor”; and added subsecs. (bb) to (cc). Prior to amendment, subsec. (c) read as follows: “(c) Unless authorized to practice chiropractic under this chapter, a person shall not use or imply the use of the words or terms “chiropractic,” “chiropractor,” “Doctor of Chiropractic,” “D.C.,” or any similar title or description of services with the intent to represent that the person practices chiropractic.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(h) of Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 9-126. — For legislative history of D.C. Law 9-126, see Historical and Statutory Notes following § 3-1202.13.

Legislative history of Law 10-203. — For legislative history of D.C. Law 10-203, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-205. — For legislative history of D.C. Law 10-205, see Historical and Statutory Notes following § 3-1207.31.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 3-1201.02.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 15-172. — For Law 15-172, see notes following § 3-1201.02.

Legislative history of Law 15-237. — For Law 15-237, see notes following § 3-1206.31.

Legislative history of Law 16-219. — For Law 16-219, see notes following § 3-1201.01.

Legislative history of Law 16-220. — For Law 16-220, see notes following § 3-1201.02.

Legislative history of Law 16-228. — For Law 16-228, see notes following § 3-1201.02.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-19. — For Law 18-19, see notes following § 3-1201.02.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

CASE NOTES

In general.

Letters from physician to Board of Medicine in which physician, who was not licensed in District of Columbia, attached "M.D." to his name and title did not establish that physician was representing that he practiced medicine or was authorized to practice health occupation, as would have violated statutory prohibitions; letters were relaying results of peer investiga-

tions and evaluations by licensed medical consultants to insurance company which employed physician, and did not reasonably support finding that physician meant to endorse recommendations of consultants as representing his own diagnosis of questioned conduct. D.C. Code 1981, §§ 2-3310.2, 2-3310.3(g). *Morris v. District of Columbia Bd. of Med.*, 701 A.2d 364, 1997 D.C. App. LEXIS 242 (1997).

§ 3-1210.04. Filing false document or evidence; false statements.

(a) No person shall file or attempt to file with any board or the Mayor any statement, diploma, certificate, credential, or other evidence if the person knows, or should know, that it is false or misleading.

(b) No person shall knowingly make a false statement that is in fact material under oath or affirmation administered by any board or hearing officer.

(Mar. 25, 1986, D.C. Law 6-99, § 1004, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3310.4.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1210.05. Fraudulent sale, obtaining, or furnishing of documents.

No person shall sell or fraudulently obtain or furnish any diploma, license, certificate or registration, record, or other document required by this chapter, by any board, or by the Mayor.

(Mar. 25, 1986, D.C. Law 6-99, § 1005, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3310.5.

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1210.06. Restrictions relating to pharmacies.

(a) Nothing in this chapter regulating the practice of pharmacy shall be construed as altering or affecting in any way District or federal laws requiring a written prescription for controlled substances or other dangerous drugs.

(b)(1) No pharmacist shall supervise more than 1 pharmacy intern at a time without prior approval of the Board of Pharmacy.

(2) No one other than a licensed pharmacist shall receive an oral prescription for Schedule II controlled substances.

(3) It shall be unlawful for a pharmacy intern to compound or dispense

any drug by prescription in the District except while in the presence of and under the immediate supervision of a pharmacist.

(4) Any person engaging in the practice of pharmacy as a pharmacy intern shall register with the Mayor and shall comply with the applicable provisions of this chapter and subpart C of subchapter IV of Chapter 28 of Title 47.

(Mar. 25, 1986, D.C. Law 6-99, § 1006, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3310.6. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1210.06a. Pharmacist consultation with medical assistance recipient or caregivers; records.

(a) A pharmacist who provides prescription services to medical assistance recipients shall offer to discuss with each medical assistance recipient or caregiver who presents a prescription order for outpatient drugs any matter which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, which may include the following:

- (1) The name and description of the medication;
- (2) The dosage form, dosage, route of administration, and duration of drug therapy;
- (3) Special directions, precautions for preparation, administration, and use by the patient;
- (4) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- (5) Techniques for self-monitoring drug therapy;
- (6) Proper storage;
- (7) Prescription refill information; and
- (8) Action to be taken in the event of a missed dose.

(b) The offer to discuss may be made in the manner determined by the professional judgment of the pharmacist, which may include any 1 or a combination of the following:

- (1) A face-to-face communication with the pharmacist or the pharmacist's designee;
- (2) A sign posted in such a manner that it can be seen by patients;
- (3) A notation affixed to or written on the bag in which the prescription is to be dispensed;
- (4) A notation contained on the prescription container;
- (5) Communication by telephone; or
- (6) Any other manner prescribed by rule.

(c) Nothing in this section shall be construed as requiring a pharmacist to provide consultation if the medical assistance recipient or caregiver refuses the consultation. These refusals shall be noted in the profile maintained in accord with subsection (d) of this section for a medical assistance recipient.

(d) A pharmacist shall make a reasonable effort to obtain, record, and

maintain, at the individual pharmacy, the following minimal information regarding a medical assistance recipient receiving a prescription:

(1) Name, address, telephone number, date of birth or age, and gender;

(2) Individual patient history when significant, including known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

(3) Pharmacist comments relevant to the individual's drug therapy, which may be recorded either manually or electronically in the patient's profile, including any failure to accept the pharmacist's offer to counsel.

(e) This section shall apply only to medical assistance recipients presenting prescriptions for covered outpatient drugs.

(f) The requirements of this section do not apply to refill prescriptions.

(g) The Mayor may adopt regulations implementing the provisions of this section to assure compliance with federal medical assistance requirements.

(Mar. 25, 1986, D.C. Law 6-99, § 1006a, as added Apr. 26, 1994, D.C. Law 10-102, § 2, 41 DCR 1002.)

Prior Codifications. — 1981 Ed., § 2-3310.6a.

Temporary Addition of Section. — For temporary (225 day) addition of section, see § 2 of Patient Counseling Temporary Amendment Act of 1992 (D.C. Law 9-258, March 25, 1993, law notification 40 DCR 2328).

For temporary (225 day) addition of section, see § 2 of Patient Counseling Temporary Amendment Act of 1993 (D.C. Law 10-84, March 19, 1994, law notification 41 DCR 1634).

Emergency legislation. — For temporary addition of section, see § 2 of the Patient Counseling Emergency Amendment Act of 1992 (D.C. Act 9-371, December 31, 1992, 40 DCR 621). Section 3 of the Act provided that if any provisions of the act or the application thereof to any health care provider is deemed improper and would thereafter cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of the act which can be given effect without the invalid provision or application.

For temporary addition of section, see § 2 of the Patient Counseling Emergency Amend-

ment Act of 1993 (D.C. Act 10-143, November 4, 1993, 40 DCR 8074).

For temporary addition of section, see § 2 of the Patient Counseling Congressional Recess Emergency Amendment Act of 1994 (D.C. Act 10-178, January 25, 1994, 41 DCR 517).

Section 3 of D.C. Act 10-178 provided that if any provision of this act or the application thereof to any health care provider is deemed improper and would therefore cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, then that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of this act which can be given effect without the invalid provision or application.

Legislative history of Law 10-102. — Law 10-102, the "Patient Counseling Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-376, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 17, 1994, it was assigned Act No. 10-190 and transmitted to both Houses of Congress for its review. D.C. Law 10-102 became effective on April 26, 1994.

§ 3-1210.07. Criminal penalties.

(a) Any person who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$10,000, or both.

(b) Any person who has been previously convicted under this chapter shall,

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upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$25,000, or both.

(Mar. 25, 1986, D.C. Law 6-99, § 1007, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(z), 42 DCR 457.)

Prior Codifications. — 1981 Ed., § 2-3310.7.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

§ 3-1210.08. Prosecutions.

(a) Prosecutions for violations of this chapter shall be brought in the name of the District of Columbia by the Office of the Attorney General for the District of Columbia.

(b) In any prosecution brought under this chapter, any person claiming an exemption from licensure, registration, or certification under this chapter shall have the burden of providing entitlement to the exemption.

(Mar. 25, 1986, D.C. Law 6-99, § 1008, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(aa), 42 DCR 457; July 18, 2009, D.C. Law 18-26, § 2(i), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3310.8.

Effect of amendments. — D.C. Law 18-26, in subsec. (a), substituted “Office of the Attorney General for the District of Columbia” for “Corporation Counsel”; and, in subsec. (b), substituted “from licensure, registration, or certification” for “from licensing”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(i) of Health Occupations Revision General Amend-

ment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 10-247. — For legislative history of D.C. Law 10-247, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1210.09. Alternative sanctions.

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2.

(Mar. 25, 1986, D.C. Law 6-99, § 1009, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3310.9.

Legislative history of Law 6-99. — For

legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

CASE NOTES

In general.

Absent express statutory or regulatory authority, regulatory agency may not impose re-

medial measures. *Davidson v. District of Columbia Bd. of Medicine*, 562 A.2d 109, 1989 D.C. App. LEXIS 130 (1989).

§ 3-1210.10. Injunctions.

(a) The Office of the Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any health occupation or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this chapter.

(b) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful sale of drugs or the unlawful trade practice or unlawful operation of a pharmacy, nursing home, community residential facility, or any other establishment purporting to provide health services.

(c) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(d) In any proceeding under this section, it shall not be necessary to prove that any person is individually injured by the action or actions alleged.

(Mar. 25, 1986, D.C. Law 6-99, § 1010, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(j), 56 DCR 4043.)

Prior Codifications. — 1981 Ed., § 2-3310.10.

Effect of amendments. — D.C. Law 18-26, in subsec. (a), substituted “The Office of the Attorney General for the District of Columbia may bring an action” for “The Corporation Counsel may bring an action”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(j) of

Health Occupations Revision General Amendment Emergency Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

§ 3-1210.11. Patient or client records.

(a) Upon written request from a patient or client, or person authorized to have access to the patient’s record under a health care power of attorney for the patient or client, the health care provider having custody and control of the patient’s or client’s record shall furnish, within a reasonable period of time, a complete and current copy of that record. If the patient or client is deceased, the request may be made by:

(1) A person authorized immediately prior to the decedent’s death to have access to the patient’s or client’s record under a health care power of attorney for the patient;

(2) The executor for the decedent’s estate;

(3) The temporary executor for the decedent’s estate;

(4) The administrator for the decedent’s estate;

(5) The temporary administrator for the decedent’s estate; or

(6) Any survivor of the decedent.

(b)(1) A health care provider may require the patient or client, or person authorized to have access to the patient’s or client’s record, to pay a reasonable fee for copying, as determined by the board through rulemaking.

(2) For the purposes of this subsection, the term “record” includes a copy of a bill that has been requested by an individual but excludes x-rays.

(c) Medical or client records shall be maintained for a minimum period of 3 years from the date of last contact for an adult and a minimum period of 3 years after a minor reaches the age of majority.

(Mar. 25, 1986, D.C. Law 6-99, § 1011, as added July 18, 2009, D.C. Law 18-26, § 2(k), 56 DCR 4043.)

Cross references. — Durable power of attorney for health care, see § 21-2205.

Emergency legislation. — For temporary (90 day) addition, see § 2(k) of Health Occupations Revision General Amendment Emergency

Act of 2009 (D.C. Act 18-146, July 28, 2009, 56 DCR 6308).

Legislative history of Law 18-26. — For Law 18-26, see notes following § 3-1201.01.

Subchapter XI. [Reserved].

Subchapter XII. Transitional Provisions.

§ 3-1212.01. Transfer of personnel, records, property, and funds.

(a) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Dental Examiners are transferred to the Board of Dentistry established by this chapter.

(b) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Commission on Licensure to Practice the Healing Arts are transferred to the Board of Medicine established by this chapter.

(c) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Nurses' Examining Board are transferred to the Board of Nursing established by this chapter.

(d) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Examiners for Nursing Home Administrators are transferred to the Board of Nursing Home Administration established by this chapter.

(e) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Occupational Therapy Practice are transferred to the Board of Occupational Therapy established by this chapter.

(f) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Optometry are transferred to the Board of Optometry established by this chapter.

(g) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Physical Therapists Examining Board are transferred to the Board of Physical Therapy established by this chapter.

(h) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of

Pharmacy are transferred to the Board of Pharmacy established by this chapter.

(i) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Podiatry Examiners are transferred to the Board of Podiatry established by this chapter.

(j) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Psychologist Examiners are transferred to the Board of Psychology established by this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 1201, 33 DCR 729.)

Prior Codifications. — 1981 Ed., § 2-3311.1. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 6-99. — For

§ 3-1212.02. Members of boards abolished.

Members of boards or commissions abolished by section 1104 shall serve as members of the successor boards to which their functions are transferred until the expiration of their terms or the appointment of their successors, whichever occurs first.

(Mar. 25, 1986, D.C. Law 6-99, § 1202, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(a), 35 DCR 147.)

Prior Codifications. — 1981 Ed., § 2-3311.2.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-104. — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987 and

December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

References in text. — “Section 1104,” referred to near the beginning of the section, is § 1104 of D.C. Law 6-99, which repealed Chapters 12, 17, 18, and 22 of Title 2 Chapters 21, 23, 24, and 26 of Title 3, 2001 Ed. and §§ 2-1301 to 2-1343 [§§ 3-2901 to 3-2943, 2001 Ed.].

§ 3-1212.03. Pending actions and proceedings; existing rules and orders.

(a) No suit, action, or other judicial proceeding lawfully commenced by or against any board or commission specified in section 1104, or against any member, officer or employee of the board or commission in the official capacity of the officer or employee, shall abate by reason of the taking effect of this chapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.

(b) No disciplinary action against a health professional or other administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this chapter, but the action or proceeding

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shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(c) Except as otherwise provided in this chapter, all rules and orders promulgated by the boards abolished by this act shall continue in effect and shall apply to their successor boards until the rules or orders are repealed or superseded.

(Mar. 25, 1986, D.C. Law 6-99, § 1203, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(b), 35 DCR 147.)

Prior Codifications. — 1981 Ed., § 2-3311.3.

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 7-104. — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 3-1212.02.

References in text. — “Section 1104”, referred to near the beginning of subsection (a), is § 1104 of D.C. Law 6-99, which repealed Chapters 12, 17, 18, and 22 of Title 2 [Chapters 21, 23, 24, and 26 of Title 3, 2001 Ed.] and § 2-1301 to 2-1343 §§ 3-2901 to 3-2943, 2001 [Ed.]. “This act”, referred to near the middle of subsection (c), is D.C. Law 6-99.

CASE NOTES

In general.

Board of Medicine had jurisdiction to hear disciplinary proceedings against physician even though notice physician received cited repealed statutory provisions of healing arts practice statute, absent showing of prejudice; physician's conviction of felony was cause for discipline under both old and new statutes and same disciplinary sanction existed for such conduct under both statutes. D.C. Code 1981, §§ 2-1344 to 2-1363, 2-3301.1 to 2-3312.1, 2-3305.14(a)(4), 2-3311.3(b); §§ 2-1301 to 2-1343, 2-1326(d)(2)(C) (repealed). *Salama v.*

District of Columbia Bd. of Medicine, 578 A.2d 693, 1990 D.C. App. LEXIS 170 (1990).

Medical board did not lack jurisdiction to discipline physician merely because its notice of intent to revoke his license erroneously cited statutes that had been repealed; replacement statutes were substantively same as those erroneously cited and there was no demonstration of any prejudice resulting from error. D.C. Code 1981, § 2-3305.14(a)(1, 8). *Davidson v. District of Columbia Bd. of Medicine*, 562 A.2d 109, 1989 D.C. App. LEXIS 130 (1989).

§ 3-1212.04. Physical therapy assistants; references thereto.

For a period of 12 months following March 6, 2007, all references to a physical therapy assistant shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed in fact.

(Mar. 25, 1986, D.C. Law 6-99, § 1204, as added Mar. 6, 2007, D.C. Law 16-220, § 2(f), 53 DCR 10216.)

Legislative history of Law 16-220. — For Law 16-220, see notes following § 3-1201.02.

Subchapter XIII. Appropriations.

§ 3-1213.01. Appropriations.

(a) Funds may be appropriated to carry out the purposes of this chapter.

(b) Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1301, 33 DCR 729; Mar. 10, 2004, D.C. Law 15-88, § 2(k), 50 DCR 10999; Aug. 16, 2008, D.C. Law 17-219, § 7048, 55 DCR 7598.)

Prior Codifications. — 1981 Ed., § 2-3312.1.

Effect of amendments. — D.C. Law 15-88 redesignated the existing section as subsec. (a); and added subsec. (b).

D.C. Law 17-219 repealed subsec. (b), which had read as follows: “(b) All provisions pertaining to marriage and family therapy added by the Marriage and Family Therapy Amendment Act of 2003, effective May 10, 2004, D.C. Law 15-88, 50 DCR 10999, shall be subject to the availability of appropriations.”

Legislative history of Law 6-99. — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 3-1201.01.

Legislative history of Law 15-88. — For Law 15-88, see notes following § 3-1201.01.

Legislative history of Law 17-219. — Law 17-219, the “Fiscal Year 2009 Budget Support Act of 2008”, was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

CHAPTER 12A. NURSE'S REHABILITATION PROGRAM.

Sec.	Sec.
3-1251.01. Definitions.	3-1251.10. Approval of treatment facilities.
3-1251.02. Formation of Committee on Impaired Nurses.	3-1251.11. Maintenance of records.
3-1251.03. Committee meetings.	3-1251.12. Nurses leaving the District of Columbia or applying for licensure in another state.
3-1251.04. Committee staff.	3-1251.13. Information booklet.
3-1251.05. Committee powers and duties.	3-1251.14. Reports to the Board.
3-1251.06. Notice of Program procedures.	3-1251.15. Rules.
3-1251.07. Disclosure of records.	3-1251.16. [Repealed].
3-1251.08. Immunity from liability.	
3-1251.09. Description of the Program.	

§ 3-1251.01. Definitions.

(a) For the purposes of this chapter, the term:

(1) "Board" means the District of Columbia Board of Nursing.

(2) "Committee" means the Committee on Impaired Nurses.

(3) "Contract" means a written agreement between the impaired nurse and the Committee providing the terms and conditions of the nurse's participation in the Program.

(4) "Disciplinary action" means any proceeding which may lead to a fine or probation, or to reprimand, restriction, revocation, suspension, denial or other order relating to the licensure or certification of a nurse by the Board of Nursing.

(5) "Impaired nurse" means a nurse who is unable to perform his or her professional responsibilities due to drug or alcohol dependency or mental illness.

(6) "Licensed Nurse" means an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

(7) "Program" means the treatment and rehabilitation program for impaired nurses described in this chapter. Program shall also refer to the facility where program services shall be provided.

(8) "Provider" means an experienced and licensed, registered, or certified individual approved by the Board.

(9) "Treatment facility" means a facility for the treatment of impairments that meets the certification requirements of the District of Columbia's Department of Health, the Joint Commission on the Accreditation of Health Care Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or other accrediting body approved by the Board.

(May 1, 2001, D.C. Law 13-297, § 2, 48 DCR 2036.)

Legislative history of Law 13-297. — Law 13-297, the "Nurse's Rehabilitation Program Act of 2001", was introduced in Council and assigned Bill No. 13-794, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on

December 5, 2000, and December 19, 2001, respectively. Signed by the Mayor on January 24, 2001, it was assigned Act No. 13-587 and transmitted to Both Houses of Congress for its review. D.C. Law 13-297 became effective on May 1, 2001.

§ 3-1251.02. Formation of Committee on Impaired Nurses.

(a) A Committee on Impaired Nurses is established to supervise operation of the Program. The Committee shall be composed of 5 nurses licensed in the District of Columbia who shall be appointed by the Board. The Board may establish additional committees as may be necessary to perform the functions described in this chapter.

(b) All members of the Committee shall be knowledgeable about impairment and rehabilitation.

(c) The members of the Committee shall be appointed for a 3-year term, except in the first year of any Committee, when the terms shall be staggered. At the end of a term, a member shall continue to serve until a successor is appointed.

(d) A Committee member who is appointed after a term has begun, or to replace a former member of the Committee, shall serve for the rest of the term of his or her predecessor. The appointed member shall continue to serve until a successor is appointed.

(e) The Board may appoint a Committee member for successive terms.

(f) The Committee shall select a chairperson from among its members.

(g) The Board may remove a Committee member for cause.

(h) The Board shall review and approve all procedures established by the Committee.

(May 1, 2001, D.C. Law 13-297, § 3, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.03. Committee meetings.

(a) The Committee shall determine where meetings are held and the frequency of meetings.

(b) Minutes of Committee meetings shall be confidential. Only Committee members shall have access to these documents.

(c) Records of the Committee shall be privileged and confidential, and shall not be disclosed. The records shall be used by the Committee only in the exercise of the proper functions of the Committee, as set forth in this chapter, and shall not be public records. The records shall not be subject to court order, except as provided in § 3-1251.07, nor subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings, except those conducted by a health regulatory board.

(d) A majority of the members serving on the Committee shall be required to establish a quorum.

(May 1, 2001, D.C. Law 13-297, § 4, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.04. Committee staff.

The Committee may employ staff or engage the services of a consultant to carry out its functions in accordance with the approved budget of the District of Columbia and as approved by the Board.

(May 1, 2001, D.C. Law 13-297, § 5, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.05. Committee powers and duties.

In addition to the powers and duties set forth elsewhere in this chapter, the Committee shall:

- (1) Evaluate a nurse who requests participation in the Program according to the guidelines prescribed by the Committee and consider recommendations for a nurse's admission into the Program;
- (2) Designate and review facilities and providers to which nurses in the Program may be referred for treatment and services;
- (3) Receive and review information concerning a nurse participating in the Program;
- (4) Consider whether a nurse participating in the Program may safely continue or resume the practice of nursing;
- (5) Hold meetings, as necessary, to consider the requests of nurses to participate in the Program and the reports regarding nurses participating in the Program;
- (6) Establish rules and guidelines for the operation of the Program, including the evaluation of facilities and providers that provide treatment and services to nurses eligible to participate in the program;
- (7) Prepare reports to be submitted to the Board; and
- (8) Set forth in writing a rehabilitation program established for each nurse participating in the Program, including the requirements for supervision and surveillance.

(May 1, 2001, D.C. Law 13-297, § 6, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.06. Notice of Program procedures.

Each nurse who requests to participate in the Program shall be informed in writing of the Program's procedures, including the rights and responsibilities of the nurse, and the consequences of noncompliance with the procedures, including suspension and termination of the nursing license.

(May 1, 2001, D.C. Law 13-297, § 7, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.07. Disclosure of records.

(a) The Committee may disclose records relating to an impaired nurse only:

(1) When disclosure of the information is essential to the intervention, treatment, or rehabilitation needs of the impaired nurse;

(2) When release of the information has been authorized in writing by the impaired nurse;

(3) To the Board, if the nurse fails to comply with the conditions of the contract; or

(4) Pursuant to an order issued by a court of competent jurisdiction.

(b) A court shall order disclosure of records relating to an impaired nurse only upon a showing of good cause, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the potential for injury to the patient, to the nurse-patient relationship, and to the treatment services. In determining the extent to which any disclosure of all or any part of any record is necessary, the court shall impose appropriate protections against unauthorized disclosures.

(c) The proceedings of the Committee which in any way pertain or refer to a specific nurse who may be, or who actually is, impaired and who may be or is, by reason of the impairment, subject to disciplinary action by the Board shall be excluded from the requirements of subchapter II of Chapter 5 of Title 2 ("Freedom of Information Act"), and may be closed to the public. Such proceedings shall be privileged and confidential.

(May 1, 2001, D.C. Law 13-297, § 8, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.08. Immunity from liability.

The members of the Committee shall be immune from liability in the exercise of their duties.

(May 1, 2001, D.C. Law 13-297, § 9, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.09. Description of the Program.

(a) Admission to the Program is voluntary.

(b) A colleague, employer, or the Board may refer impaired nurses to the Program through a self-report, formal complaint.

(c) A nurse requesting admission to the Program may not have:

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- (1) Caused an injury to an individual while practicing nursing;
- (2) Malpractice litigation pending against him or her alleging that he or she caused an injury to an individual while practicing nursing; or
- (3) Been arrested for diversion of controlled substances for sale or distribution.

(d) The Committee and the nurse shall enter into a written contract that sets forth the requirements and conditions for the nurse's participation in the Program.

(e) A nurse who fails to comply with the requirements and conditions of the written contract shall be reported to the Board for disciplinary action. The Board may take such action as described in § 3-1205.14 (revocation, suspension, or denial of license or privilege, civil penalty, reprimand) against a nurse who is expelled from the rehabilitation program for noncompliance. The Board shall not be required to recommend a course of remediation, as described in § 3-1205.14(c)(6), for a nurse who is expelled from a rehabilitation program. The license of a nurse who is expelled from the rehabilitation program for noncompliance may be immediately suspended or restricted as described in § 3-1205.15 (summary action).

(f) Evaluation of a nurse for participation in the Program shall be the responsibility of the Committee.

(g) At the request of the Board, the Committee, in consultation with the treatment providers, may evaluate a nurse with a drug or alcohol abuse problem, or mental illness, for readiness to return to the practice of nursing.

(h) An impaired nurse who is participating in the rehabilitation program may voluntarily limit or surrender any license issued under Chapter 12 of this title in accordance with § 3-1205.18.

(May 1, 2001, D.C. Law 13-297, § 10, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.10. Approval of treatment facilities.

(a) To qualify as a designated treatment facility to which a nurse in the Program may be referred, the treatment facility shall meet the following criteria:

- (1) The treatment facility shall have a specific, identified contact person to whom the nurse can be referred for assistance;
- (2) The treatment facility shall have convenient hours of operation;
- (3) The costs of treatment services shall be clearly stated and defined to the Committee and to the nurse seeking assistance;
- (4) Treatment and rehabilitation services shall be available and used in conjunction with appropriate individual and group therapy and other appropriate treatment modalities;
- (5) The treatment facility shall have a provider who is available to conduct timely assessments and evaluations on site or at a convenient location;
- (6) The treatment facility provider shall agree to submit written reports of

the assessments and evaluations to the Committee within a designated period of time;

(7) The treatment facility provider shall agree to disclose to the Committee, upon request, all information in its possession regarding a nurse's impairment or disability and the nurse's participation in the treatment facility, in accordance with a signed release of information from the nurse;

(8) The treatment facility shall agree to submit progress reports at least quarterly and upon request, and immediately if a significant event should occur in treatment that is related to the issues of impairment or disability and its effect on the nurse's practice; and

(9) The treatment facility shall conduct random, supervised testing to screen for drug use. The treatment facility shall agree to make available all results of drug screens to the Committee, and shall agree to inform the Committee immediately should a drug screen be positive.

(b) The Committee shall evaluate the Program and participating treatment facilities at least annually to ensure that the criteria listed in subsection (a) of this section are maintained.

(May 1, 2001, D.C. Law 13-297, § 11, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.11. Maintenance of records.

(a) Records shall be confidential and maintained in a locked file in the office of the Board.

(b) A nurse's records shall be destroyed 2 years after the nurse's satisfactory discharge from the Program.

(May 1, 2001, D.C. Law 13-297, § 12, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.12. Nurses leaving the District of Columbia or applying for licensure in another state.

(a) A nurse participating in the Program who moves to a jurisdiction where a rehabilitation program is in place and applies for licensure in that jurisdiction shall be transferred to that jurisdiction's rehabilitation program.

(b) A nurse participating in the Program who moves to a jurisdiction where there is no rehabilitation program and applies for licensure in that jurisdiction shall have his or her records transferred to that jurisdiction's equivalent of the Board.

(c) Whenever a nurse who applies for licensure in another jurisdiction continues to practice nursing in the District of Columbia:

(1) If the jurisdiction has a rehabilitation program in place, the program

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shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia; or

(2) If there is no rehabilitation program in the jurisdiction, the jurisdiction's equivalent of the Board shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia.

(May 1, 2001, D.C. Law 13-297, § 13, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.13. Information booklet.

The Committee shall publish an informational booklet describing the Program for the public. The booklet shall be updated as may be necessary.

(May 1, 2001, D.C. Law 13-297, § 14, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.14. Reports to the Board.

The Board shall require reports from the Committee annually and at such other times as it believes may be necessary and appropriate. The reports shall include:

(1) Information concerning the number of cases accepted, denied, and terminated, with compliance or noncompliance; and

(2) A cost analysis of the Program.

(May 1, 2001, D.C. Law 13-297, § 15, 48 DCR 2036; Mar. 2, 2007, D.C. Law 16-191, § 127, 53 DCR 6794.)

Effect of amendments. — D.C. Law 16-191 validated a previously made technical correction.

D.C. Law 13-297, see notes following § 3-1251.01.

Legislative history of Law 13-297. — For

Legislative history of Law 16-191. — For Law 16-191, see notes following § 3-326.

§ 3-1251.15. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this chapter.

(May 1, 2001, D.C. Law 13-297, § 16, 48 DCR 2036.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

§ 3-1251.16. Appropriations. [Repealed].

Repealed.

(May 1, 2001, D.C. Law 13-297, § 17, 48 DCR 2036; Mar. 25, 2009, D.C. Law 17-353, § 316, 56 DCR 1117.)

Legislative history of Law 13-297. — For D.C. Law 13-297, see notes following § 3-1251.01.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

CHAPTER 13. LOTTERY AND CHARITABLE GAMES CONTROL BOARD.

Sec.

- 3-1301. Created; appointment; composition; qualifications; vacancies; term of office; compensation.
- 3-1302. Oaths; financial disclosure statement; voting; subcommittees; quorum.
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Sec.

- 3-1322. Operation of bingo and raffles.
- 3-1322.01. Monte Carlo night party.
- 3-1323. Licenses to conduct bingo games, raffles, and Monte Carlo night parties.
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- 3-1333. Forged, counterfeit or altered tickets.
- 3-1334. Gambling by minor prohibited.
- 3-1335. Payment of prize by or on behalf of minor.
- 3-1336. Competitive bid contracts.
- 3-1337. [Repealed].

§ 3-1301. Created; appointment; composition; qualifications; vacancies; term of office; compensation.

(a) There is hereby created by the District of Columbia the District of Columbia Lottery and Charitable Games Control Board, hereinafter referred to as the Board. The 1st Board shall be appointed as hereinafter specified within 60 days of March 10, 1981. The Board shall consist of 5 members who shall be appointed by the Mayor of the District of Columbia with the consent of the Council of the District of Columbia. Of the members appointed, one shall be designated as Chairperson of the Board by the Mayor of the District of Columbia.

(b) Each member of the Board, at the time of appointment and qualification, shall be a registered voter in the District for at least 5 years preceding appointment and qualification and shall be not less than 21 years of age. In the event of a vacancy on the Board as a consequence of resignation, disability, death, or for other reasons, the Mayor of the District of Columbia shall appoint, with the consent of the Council of the District of Columbia, another person to fill the vacancy.

(c) Of the members of the Board first appointed, 2 shall hold office for 2 years, from 1981 to 1983; 2 for 3 years from that date; and the Chairperson, 4 years from that date. Thereafter, members shall be appointed for terms of 4

years from the 1st day of July in the year of their appointment and until their successors are appointed and have qualified.

(d) Each member of the Board shall receive a stipend of \$15,000 annually, except the Chairperson of the Board, who shall receive an additional stipend of \$3,000 annually for a total of \$18,000.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Cross references. — Nomination and approval of agency heads, see § 1-523.01.

Prior Codifications. — 1981 Ed., § 2-2501.

Legislative history of Law 3-172. — Law 3-172, the “Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia,” was submitted to the electors of the District of Columbia on November 4, 1980, as Initiative No. 6. The results of the voting, certified by the Board of Elections and Ethics on November 21, 1980, were 104,899 for the Initiative and 59,833 against the Initiative. It was transmitted to both Houses of Congress for its review on January 19, 1981.

Editor’s notes. — Restriction on advertising, sale, operation, or playing of lotteries, raffles, bingos, etc., on Federal enclave: See Pub. L. 97-91, 103 Stat. 1174, December 4, 1981, as amended by Pub. L. 101-168, 103 Stat. 1282, November 21, 1989.

Sources of funding appropriation: Public Law 103-127, 107 Stat. 1343, the District of Columbia Appropriations Act, 1994, provided that the District of Columbia shall identify the sources of funding for this appropriation title from the District’s own locally-generated revenues, and provided further, that no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

Restrictions on use of Federal payment: Section 134 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided

that the paragraph under the heading “Lottery and Charitable Games Enterprise Fund” in the District of Columbia Appropriation Act, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), is amended by striking the 10th proviso; and in the 11th proviso, by striking “1144, as well as in the Old Georgetown Historic District.” and inserting “1144.”; and the 11th proviso referred to in subsection (a)(2), as amended by such subsection, shall not apply with respect to any activity relating to a lottery, raffle, bingo, or other game of chance sponsored by, and conducted solely for the benefit of, an organization which is described in section 501(c)(3), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986.

Appropriations authorized: Public Law 103-334, 108 Stat. 2582, the District of Columbia Appropriations Act, 1995, provided for the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriations Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), as amended, for the purpose of implementing § 2-2501 et seq. and 22-1516 et seq., \$8,318,000, to be derived from non-Federal District of Columbia revenues. Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District’s own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

§ 3-1302. Oaths; financial disclosure statement; voting; subcommittees; quorum.

Before entering upon the discharge of the duties of office, each member of the Board shall take oath that he or she will faithfully execute the duties of office according to the laws of the District of Columbia. In addition thereto, each member of the Board shall take and subscribe to an oath or affirmation that he or she is not pecuniarily interested, voluntarily or involuntarily, directly or indirectly, in any firm, partnership, association, organization, or corporation engaged in any activity related to legalized or illegal gambling. Each member shall file with the Office of the Mayor a financial disclosure statement. The powers of the Board are vested in the Board members. All actions shall be taken and motions and resolutions adopted by the Board at any meeting

thereof by the affirmative vote of at least 3 members; provided the Board may establish subcommittees of the Board, composed of 3 members of the Board, to conduct hearings, inquiries, and investigations under this chapter or the regulations promulgated hereunder, and so report its findings and recommendations to the Board; provided, further, however, that no license authorized pursuant to this chapter may be issued or subsequently revoked or suspended unless approved by the affirmative vote of at least 4 Board members upon recommendation by any such subcommittee. Three members of the Board shall constitute a quorum except for matters involving issuance, revocation, or suspension of license authorized pursuant to this chapter.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2502. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1303. Executive Director and Deputy Director.

(a) The Board shall appoint an Executive Director and a Deputy Director in accordance with § 1-609.08, each of whom shall devote his or her full time and attention to the duties of their respective offices and shall serve at the pleasure of the Board. The Executive Director shall be a resident of the District and shall remain a District resident for the duration of his or her employment by the Board. Failure to maintain District residency shall result in a forfeiture of the position.

(b) The Board shall determine the compensation for the Executive Director and the Deputy Director, which shall not be less than the basic pay for step 1 of Grade 16 of Schedule 1 of the District Service Schedule, nor shall it exceed the rate of compensation for the Mayor of the District of Columbia pursuant to § 1-611.09.

(c) Prior to performing the duties of their respective offices, the Executive Director and the Deputy Director shall take and subscribe to the same oaths or affirmations as that required by the Board, including an oath or affirmation that he or she is not primarily interested, directly or indirectly, in any firm, partnership, association, organization, or corporation engaged in any activity related to legalized or illegal gambling. The Executive Director and the Deputy Director shall each file an annual financial disclosure statement with the Board.

(d) The Executive Director shall, subject to the direction and supervision of the Board:

- (1) Serve as the Chief Executive Officer of the Board;
- (2) Manage, administer, and coordinate the operation of public gambling and charitable games activities;
- (3) Employ other assistants and employees in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978; and
- (4) Confer, at least once each month, with the Board on the administration and operation of public gambling and charitable games activities.

(d-1)(A) Notwithstanding the provisions of Unit A of Chapter 14 of Title 2,

each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Board unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit proof of residency upon employment in a manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the director of personnel of the Board for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment.

(B) The Board shall submit to the Mayor and the Council annual reports detailing the names of all new employees and their pay schedules, titles, and place of residence.

(e) The Board may delegate to the Executive Director and Deputy Director other duties it deems necessary for the proper and efficient operation of public gambling and charitable activities.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Feb. 28, 1987, D.C. Law 6-205, § 3, 34 DCR 670; Feb. 6, 2008, D.C. Law 17-108, § 206, 54 DCR 10993; Mar. 25, 2009, D.C. Law 17-353, § 223(d), 56 DCR 1117.)

Prior Codifications. — 1981 Ed., § 2-2503.

Effect of amendments. — D.C. Law 17-108, in subsec. (a), inserted “The Executive Director shall be a resident of the District and shall remain a District resident for the duration of his or her employment by the Board. Failure to maintain District residency shall result in a forfeiture of the position.”; in subsec. (d), deleted “; and” from the end of par. (3), substituted “; and” for a period at the end of par. (4), and added par. (5).

D.C. Law 17-353, in subsec. (d), inserted “and” at the end of par. (3), substituted a period for “; and” at the end of par. (4); redesignated par. (5) of subsec. (d) as subsec. (d-1); and, in subsec. (d-1), substituted “Board” for “Authority”.

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-205. — Law 6-205, the “Lottery Initiative No. 6 Reform Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-526, which was referred to the Committee on Libraries, Recre-

ation and Charitable Games. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-265 and transmitted to both Houses of Congress for its review.

Legislative history of Law 17-108. — Law 17-108, the “Jobs for D.C. Residents Amendment Act of 2007,” was introduced in Council and assigned Bill No. 17-185 which was referred to the Committee on Workforce Development and Government Operations. The Bill was adopted on first and second readings on July 10, 2007, and October 2, 2007, respectively. Signed by the Mayor on October 26, 2007, it was assigned Act No. 17-172 and transmitted to both Houses of Congress for its review. D.C. Law 17-108 became effective on February 6, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

References in text. — The “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” referred to in subsection (d)(3), is D.C. Law 2-139.

§ 3-1304. Bonding of employees; fingerprinting.

The Board may, if it determines it necessary, require all or any of its employees to give bond in such amount as the Board may determine. Every such bond shall be filed in the Office of the District of Columbia Treasurer. The

cost of any such bond so given shall be part of the necessary expenses of the Board. Further, all persons employed by the Board shall be fingerprinted before, and as a condition of, employment.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2504. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1305. Conflict of interest.

No member of the Board, Chairperson of the Board, Executive Director, or employee of the Board during their tenure of appointment or employment shall: Hold any other elected or appointed position; or have, directly or indirectly, individually or as a member of a partnership, or as an officer, director, or shareholder of a corporation, any interest whatsoever in any lottery or daily numbers game, bingo, raffles enterprise, or Monte Carlo night party or in the ownership or leasing of any equipment, property, or premises used by or for any lottery or daily numbers game, bingo, raffles enterprise, or Monte Carlo night party.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(1), 34 DCR 900.)

Prior Codifications. — 1981 Ed., § 2-2505.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 6-220. — Law 6-220 was introduced in Council and assigned Bill No. 6-527, which was referred to the Committee on Libraries, Recreation, and Charitable Games. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-276 and transmitted to both Houses of Congress for its review.

§ 3-1306. Enforcement; rules and regulations.

(a) The Board shall have the power to enforce provisions of this chapter and shall make all necessary rules and regulations for this purpose and for carrying out, enforcing, and preventing any violation of any provision of this chapter; for investigation of potential and existing licensees of the Board; for inspecting licensed premises or enterprises; for insuring proper, safe, and orderly conduct of licensed premises or enterprises; and for protecting the public against fraud, deceit, deception, or overcharge. The Board shall have power generally to do whatever is reasonably necessary for the carrying out of the intent of this chapter and subchapter II of Chapter 17 of Title 22 and is empowered to call upon other administrative departments and agencies of the City government, as well as the Police Department and the Office of the Corporation Counsel, for such information and assistance as it deems necessary to the performance of its duties.

(b) The Board shall, each year on or before December 31st, publish in convenient pamphlet form all rules and regulations then in effect and shall furnish copies of such pamphlets to every establishment and enterprise engaged in activities authorized pursuant to this chapter and subchapter II of Chapter 17 of Title 22. Amendments, changes, modifications, deletions, or

additions to the rules and regulations shall be published and distributed at more frequent intervals as the Board deems necessary.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2506.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

CASE NOTES

In general.

Lottery winner's entitlement to prize is governed by principles of contract law. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

Statement on lottery ticket that "[a]ll tickets, transactions, drawings, players and prizes are subject" to rules and regulations of Lottery and Charitable Games Control Board did not reveal clear intention of parties to be bound by future changes in regulations. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

D.C. Lottery and Charitable Games Control Board regulations in effect in 1986, discharging Board of all liability upon payment of prize to owner, defined as person whose name appeared on back of ticket, did not preclude lottery winner from assigning his future payments to third party in return for present-value lump sum; while such language might be read to express intent to bar assignments, it could also express no more than direction on how payment was to be made, conveying lesser intent that only

single winner may claim prize, and thus, it was too ambiguous to overcome presumption favoring free assignment of contracts. D.C. Mun.Reg. title 29, §§ 603-603.3; title 31, § 1136.1. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

Anti-assignment regulation adopted by D.C. Lottery and Charitable Games Control Board in 1992, making unassignable the "rights of any person to a prize or portion of a prize," did not preclude plaintiff, who won lottery in 1986, from assigning his future payments in 1993 in return for present-value lump sum; although "or portion of a prize" could be interpreted to include future payments on pre-1992 prizes, it could just as reasonably be interpreted to cover person who won lottery after effective date of rule but sought to assign remaining portion of prize years later, and there was no question that when plaintiff won his prize, he acquired right to assign his winnings in keeping with normal rule of free assignability of contracts. D.C. Mun.Reg. title 39, § 607.1. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

§ 3-1307. Reports.

The Board shall make an annual report in writing to the Mayor no later than December 31st of each year for the preceding fiscal year. This annual report shall include a statement of the receipts and disbursements of the Board, a summary of its activities, and any additional information and recommendations which the Board may deem of value to the Mayor or which the Mayor may request. The Board shall also make such additional reports as the Mayor may reasonably request.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2507.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1308. Power to administer oaths and take testimony; subpoena power.

The Board, or any subcommittee thereof authorized to conduct any inquiry,

investigation, or hearing pursuant to this chapter, shall have the power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the Board, the Board or subcommittee thereof, or such agent having authority by law to issue such process, may subpoena witnesses and require production of records, papers, and documents relevant to such inquiry. The refusal or failure to provide relevant testimony or produce relevant records, papers, and documents pursuant to the properly issued subpoena of the Board by any applicant before the Board or licensee or agent authorized by the Board, or any officer, director, or employee of such applicant, licensee, or agent, may subject such applicant to summary denial of its application and summary termination of license or authorization of such licensee or agent. If any person disobeys such process, or, having appeared in obedience thereto, refuses to answer any relevant or pertinent questions propounded by the Board or subcommittee thereof, the Board or subcommittee thereof may apply to the Superior Court of the District of Columbia, or to any judge of said Court if the Court is not in session, setting forth such disobedience to process or refusal to answer, and said Court or judge shall cite such person to appear before said Court or judge to answer such questions or to produce such records and papers and, upon refusal to do so, shall take such punitive action, in accord with the appropriate provisions of the District of Columbia Code, as said Court or judge may deem necessary and appropriate. Notwithstanding the imposition of any such punitive action, the Board or subcommittee thereof may proceed with such inquiry or investigation as if the witness had not previously been called to testify.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2508. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1309. Record of proceedings.

The Board shall provide books in which shall be kept a true, faithful, and correct record of all of its proceedings, which books shall be open and available to the public.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2509. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1310. Divisions.

There shall be established within the Board a City Lottery and Numbers Game Division and a Charitable Games Division. Each Division shall have a Division Chief (hereinafter referred to as “Chief”) who shall administer and coordinate operation of authorized activities in the respective Division. Each Chief shall maintain full and complete records of the operation of the Division which shall include, but not be limited to, a statement of revenues and/or

license fees; prize disbursements, where applicable; and administrative expenses of the Division. Such records shall be open and available to the public.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(2), 34 DCR 900.)

Prior Codifications. — 1981 Ed., § 2-2510.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-220. — For legislative history of D.C. Law 6-220, see Historical and Statutory Notes following § 3-1305.

§ 3-1311. Budget.

The Board shall submit to the Mayor a consolidated budget covering all anticipated income, expenses (including all start-up costs), and capital outlays of the District of Columbia Lottery and Charitable Games Control Board, which budget shall show the net amount for which it requests an appropriation during its 1st year of operation. Said budget shall be submitted on the date that all District government agencies are required to submit their budgets to the Mayor. The Mayor shall transmit to the Council the budget as requested by the Board. The Mayor may also submit such modified budget as he deems appropriate. The net amount for which the Board requests an appropriation shall be the difference between the anticipated expenses for the coming fiscal year, including debt service for capital expenses and a reserve for bad debts, as shown in the consolidated budget, and the anticipated income shown in that budget. Said appropriation shall be in the form of 1 lump-sum amount and shall be transferred to the Board. The Board shall, upon final determination of the amount of such appropriation by the Council, support such amount in all further budgetary deliberations.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2511.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1312. Lottery and Charitable Games Fund.

(a) A District of Columbia Lottery and Charitable Games Fund (hereinafter referred to as the “Fund”) shall be established and controlled by the Board to receive all funds and fees generated by the specific forms of gambling operated or licensed by the Board. All funds generated by gambling activities operated or licensed by the Board shall be deposited in the Fund or a division thereof as created by the Board.

(b) Any monies of the Board, from whatever source derived (including gifts to the Board), shall be for the sole use of the Fund and shall be deposited as soon as practicable in that Fund and shall be disbursed from the Fund according to the terms of this chapter. Said disbursements from the Fund in amounts up to \$500 shall be paid out in checks signed by the Executive Director or his designee. Disbursements in excess of \$500 shall be paid out in checks signed by the Executive Director and a member of the Board authorized and designated by the Board. All deposits of such monies shall be secured in a

manner consistent with deposits made by the government of the District of Columbia with respect to the deposit of revenue.

(c) From the Fund, the Board shall first pay for the operation, administration, and capital expenses of the specific forms of gambling operated and licensed by the Board as authorized by this chapter, including the payment of prizes to winners of the games, as specified in this chapter pursuant to regulations promulgated by the Board. The remainder shall be paid over by the Board, on a monthly basis promptly after the 1st of the month for the preceding month, into the General Fund of the District of Columbia as general purpose revenue funds of the District of Columbia.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2512. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1313. Operation of lottery.

The Board shall operate and conduct a lottery and shall determine the number of times a lottery shall be held each year, the form and price of tickets, and the number and value of prizes to winning participants, determined in a manner and on a basis designated by the Board. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid according to regulations established by the Board under § 3-1312. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 8, 2011, D.C. Law 18-370, § 762, 58 DCR 1008; May 31, 2012, D.C. Law 19-128, § 2, 59 DCR 2254.)

Prior Codifications. — 1981 Ed., § 2-2513.

Effect of amendments. — D.C. Law 18-370 designated the existing text as subsec. (b); and added subsecs. (a) and (c).

D.C. Law 19-128 rewrote the section, which formerly read:

“(a) A lottery or lottery game means both games of skill and games of chance that are operated by and for the benefit of the District of Columbia by the Board; provided, that:

“(1) If the games of skill and games of chance are offered via the Internet, any technology employed for the play shall confirm the play to be at all times within the District; provided further, that the restriction shall not apply to the conduct of fantasy sports and sweepstakes-style games if such games are lawful; and

“(2) No method, media, or device for play of the games of skill and games of chance shall violate An Act To prohibit transportation of gambling devices in interstate and foreign commerce, approved January 2, 1951 (15 U.S.C. § 1171 et seq.), or any other federal law.

“(b) The Board shall operate and conduct a lottery and shall determine the number of

times a lottery shall be held each year, the form and price of tickets therefor, the number and value of prizes to winning participants, determined in a manner and on a basis designated by the Board. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid according to regulations established by the Board under § 3-1312. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents.

“(c) The Board, through the Chief Financial Officer, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this section, and may establish which games may be offered and additional terms and conditions for the conduct of the games not inconsistent with subsection (a) of this section, including the percentage of wagered amounts to be retained by the Board, minimum and maximum wagers, and time limitations for the games.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 762 of

Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

For temporary (90 day) amendment of section, see § 2 of Lottery Amendment Repeal Emergency Amendment Act of 2012 (D.C. Act 19-312, February 22, 2012, 59 DCR 1701).

For temporary (90 day) repeal of section 3 of D.C. Law 19-332, see § 7007 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-128, see § 7007 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 18-370. — Law 18-370, the “Fiscal Year 2011 Supplemental Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-1100, which was referred to the Committee of the Whole. The Bill was adopted on first and second read-

ings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-721 and transmitted to both Houses of Congress for its review. D.C. Law 18-370 became effective on April 8, 2011.

Legislative history of Law 19-128. — Law 19-128, the “Lottery Amendment Repeal Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-474, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 18, 2012, it was assigned Act No. 19-322 and transmitted to both Houses of Congress for its review. D.C. Law 19-128 became effective on May 31, 2012.

Short title. — Short title: Section 761 of D.C. Law 18-370 provided that subtitle G of title VII of the act may be cited as “Lottery Modernization Amendment Act of 2010”.

Editor’s notes. — Section 3 of D.C. Law 19-128 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

§ 3-1314. Operation of daily numbers games.

The Board shall operate and conduct a daily numbers game. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid in the manner specified in § 3-1312. The Board shall authorize daily numbers games sales agents to distribute monies from the Fund to holders of winning tickets pursuant to regulations established by the Board. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2514.

Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1315. Sale of lottery and daily numbers games tickets by licensed agents; unauthorized sale.

The Board may license, as agents to sell lottery and daily numbers games tickets, such persons and establishments as, in its judgment, possess the requisite qualifications, including, but not limited to: The financial responsibility of the person and his business or activity; the accessibility of the place of business or activity to the public; the sufficiency of existing licenses to serve the public convenience; and the volume of expected sales. No license as an agent shall be issued to any person to engage in business primarily as a lottery agent. The Board may authorize compensation to such agents in such manner and amounts and subject to such limitations as it may determine are necessary to assure adequate availability of lottery and daily numbers games tickets. The Board shall also require that an agent be bonded in such amounts and in such

manner as determined by the Board. The Board shall condition the issuance of a license upon the written agreement of the licensee to indemnify and to save harmless the District of Columbia against any and all actions, claims, and demands of whatever kind or nature which the District of Columbia may incur by reason of or in consequence of issuing such license. No lottery or daily numbers games tickets shall be sold at other than the price fixed by the Board, and no sale shall be made by other than a licensee or his employee. Any person convicted of violating this section shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed 6 months, or both.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2515. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1316. Sales agents' special accounts; reports of receipts and transactions.

(a) The Board, in its discretion, may require lottery and daily numbers games sales agents to deposit in the Fund or a special escrow account, in the name of the Board, to the credit of the Board, which the Board is authorized to establish, in institutions designated by it which are legal for the deposit of municipal funds, all monies received by such agents from the sale of lottery and daily numbers games tickets less the amount of authorized compensation to licensed agents and prizes, if any, authorized under § 3-1314, and to file with the Board reports of their receipts and transactions in the sale of lottery and daily numbers games tickets in such form and containing such information as the Board may require.

(b) Lottery and daily numbers games sales agents shall hold in trust, for the benefit of the Board, all monies received by the agent from the sale of lottery and daily numbers games tickets until such monies are transferred to the Board. The Board shall determine the amount of compensation to be paid to the sales agents and the amount of prizes to be paid by sales agents. The Board shall have authority to adopt regulations to implement this section.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; June 3, 1997, D.C. Law 11-272, § 2(b), 43 DCR 4672.)

Prior Codifications. — 1981 Ed., § 2-2516.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 11-272. — Law 11-272, the "Lottery Games Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-698. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 5, 1996, it was assigned Act No. 11-371 and transmitted to both Houses of Congress for its review. D.C. Law 11-272 became effective on June 3, 1997.

§ 3-1317. Depositories.

The Board may authorize compensation to such depositories in such manner and amounts and subject to such limitations as the Board may determine. The depositories referred to in § 3-1316 shall transfer the deposits made pursuant

to § 3-1316 to the designated accounts of the Board, less any compensation for services rendered by the depositories to the Fund, and less any amounts due the agents or depositories by adjustments authorized by the Board because of depository or agent errors. The depositories shall file reports of their receipts and transactions in such form and containing such information as the Board may require.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2517. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1318. Unclaimed prizes.

(a) An unclaimed prize for a winning ticket or share shall be retained by the Board for the person entitled to the prize for 180 days after the drawing in which the prize was won. If no claim is made for the prize within the 180-day period, the unclaimed prize funds shall be used as follows:

(1) The first \$150,000 in fiscal year 2012 shall be used by the Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) to fund Earned Income Tax Credit outreach and marketing efforts for District residents. The Deputy Mayor is authorized to make direct grants to qualified community partners to effectuate the purpose of this paragraph, subject to terms and conditions approved by the Deputy Mayor.

(2) The next \$350,000 in fiscal year 2012 shall be deposited in the unrestricted balance of the General Fund of the District of Columbia and recognized as fiscal year 2012 revenues.

(3) The next \$250,000 in fiscal year 2012 shall be used by the Deputy Mayor to fund cultural activities in the Chinatown community. The Deputy Mayor is authorized to make direct grants to qualified community partners to effectuate the purpose of this paragraph, subject to terms and conditions approved by the Deputy Mayor.

(4) The next \$15,000 in fiscal year 2012 shall be used to fund the Mayor’s Council on Physical Fitness, Health, and Nutrition.

(5) Any subsequent unclaimed prize funds shall be used by the Board as additional prizes in lottery games or promotions.

(b) Nothing in this section shall be construed to prohibit the holding of bonus games or drawings with a preannounced period for claiming prizes of other than 180 days. The Board shall have the authority to establish by rule or regulation the claim periods for tickets issued by electronic instant-ticket-vending machines, games offered via the internet, and promotional games.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Sept. 14, 2011, D.C. Law 19-21, § 7032, 58 DCR 6226.)

Prior Codifications. — 1981 Ed., § 2-2518.
Effect of amendments. — D.C. Law 19-21 rewrote the section, which formerly read:

“Unclaimed prizes for a winning ticket or share shall be retained by the Board for the person entitled thereto for 1 year after the

drawing in which the prize was won. If no claim is made for the prize within the 1-year period, the prize shall be paid over to the General Fund of the District of Columbia. Nothing in this section shall be construed to prohibit the holding of bonus games or drawings with a

preannounced period for claiming of prizes of other than 1 year.”

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 19-21. — For

history of Law 19-21, see notes under § 3-101.01.

Short title. — Short title: Section 7031 of D.C. Law 19-21 provided that subtitle D of title VII of the act may be cited as “Lottery Winnings Redemption Amendment Act of 2011”.

§ 3-1319. Audit.

The Auditor of the District of Columbia shall cause to be conducted a regular post audit of all accounts and transactions of the Board with respect to the operation of lottery and daily numbers games.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2519.

Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1320. Persons ineligible to purchase tickets or shares or receive prizes.

(a) No ticket or share shall be purchased by, and no prize shall be paid to, any of the following persons: Any member or employee of the Board or any spouse, domestic partner, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the Board.

(b) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Sept. 12, 2008, D.C. Law 17-231, § 11(a), 55 DCR 6758.)

Prior Codifications. — 1981 Ed., § 2-2520.

Effect of amendments. — D.C. Law 17-231, designated subsec. (a); in subsec. (a), substituted “spouse or domestic partner” for “spouse”; and added subsec. (b).

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

§ 3-1321. Rules and regulations governing conduct of lottery and daily numbers games.

The Board shall adopt rules and regulations governing the conduct of lotteries and daily numbers games to insure the integrity of the conduct of lotteries and daily numbers games to protect the economic welfare and interests in fair and honest play of lotteries and daily numbers games participants. Such rules and regulations shall include, but not be limited to: Specific application requirements and the form thereof; the terms, conditions, and rules for lotteries or daily numbers games; amount of or value of prizes; and the occasions on and frequency with which lotteries and daily numbers games may be conducted. The Board shall have the authority to impose a fine of not more than \$1,000 for any violation of such rules and regulations. The Board also shall have the authority to suspend licenses of any person, firm, partnership, association, organization, or corporation for a period not to exceed

60 days for violation of such rules and regulations. All fines imposed pursuant to this section shall be paid over to the Board which shall place such fines in the Fund. Any person, firm, partnership, association, organization, or corporation fined or suspended pursuant to this section shall have a right to a hearing before the Board and, in the event of its affirmation of such fine or suspension, the right to appeal such fine or suspension to the Superior Court of the District of Columbia.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2521.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

CASE NOTES

Effect of regulations.

D.C. Lottery and Charitable Games Control Board regulations in effect in 1986, discharging Board of all liability upon payment of prize to owner, defined as person whose name appeared on back of ticket, did not preclude lottery winner from assigning his future payments to third party in return for present-value lump sum; while such language might be read to express intent to bar assignments, it could also express no more than direction on how payment was to be made, conveying lesser intent that only single winner may claim prize, and thus, it was too ambiguous to overcome presumption favoring free assignment of contracts. D.C. Mun.Reg. title 29, §§ 603-603.3; title 31, § 1136.1. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

Anti-assignment regulation adopted by D.C.

Lottery and Charitable Games Control Board in 1992, making unassignable the “rights of any person to a prize or portion of a prize,” did not preclude plaintiff, who won lottery in 1986, from assigning his future payments in 1993 in return for present-value lump sum; although “or portion of a prize” could be interpreted to include future payments on pre-1992 prizes, it could just as reasonably be interpreted to cover person who won lottery after effective date of rule but sought to assign remaining portion of prize years later, and there was no question that when plaintiff won his prize, he acquired right to assign his winnings in keeping with normal rule of free assignability of contracts. D.C. Mun.Reg. title 39, § 607.1. *Peterson v. District of Columbia Lottery & Charitable Games Control Bd.*, 673 A.2d 664, 1996 D.C. App. LEXIS 54 (1996).

§ 3-1322. Operation of bingo and raffles.

The Board may authorize the operation of bingo and raffles in the District of Columbia. Bingo means that form of gambling in which the winning chances are determined by a random drawing of a subset of numbered objects among a total set of 75 objects, consecutively numbered from 1 to 75; and the card, or cards, held by the player, which card or cards is or are sold, rented, or used only at the time of the gambling activity, and contains 5 rows of 5 spaces each, each space imprinted with a number between 1 and 75 inclusive, except the central space which is marked “FREE.” For the purpose of this section, raffle is a lottery, other than that operated by the District of Columbia pursuant to this chapter, in which a prize is won by at least 1 of numerous persons buying chances.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2522.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1322.01. Monte Carlo night party.

(a) The Board may authorize the operation of Monte Carlo night parties in the District of Columbia.

(b) A Monte Carlo night party means an event for raising funds for charitable purposes at which wagers are made, through the use of imitation money presented to a participant in exchange for a donation to the event, in games of chance customarily associated with a gambling casino and at which a participant may use any accumulated imitation money to purchase prizes at the end of the event. The term “Las Vegas night party” may also be used to describe this type of event.

(c) The Board shall issue proposed rules, pursuant to subchapter I of Chapter 5 of Title 2, to implement the provisions of this section. In developing the proposed rules, the Board shall not permit any person, firm, partnership, association, organization, or corporation to sponsor, conduct, or hold more than 2 Monte Carlo night parties in a calendar year, shall place a maximum monetary value amount on the prizes that may be offered, and shall mandate that there be no direct correlation between the amount of imitation money presented to a participant and the participant’s donation to the event. The proposed rules shall be submitted to the Council of the District of Columbia (“Council”) for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed effective.

(Mar. 10, 1981, D.C. Law 3-172, § 4, as added Apr. 11, 1987, D.C. Law 6-220, § 2(b)(3), 34 DCR 900; May 16, 1995, D.C. Law 10-255, § 7, 41 DCR 5193.)

Prior Codifications. — 1981 Ed., § 2-2522.1.

Legislative history of Law 6-220. — Law 6-220, the “Monte Carlo Night Party Licensure Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-527, which was referred to the Committee on Libraries, Recreation, and Charitable Games. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-276 and transmitted to both Houses of Congress for its review.

Legislative history of Law 10-255. — Law 10-255, the “Technical Amendments Act of

1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective on May 16, 1995.

Resolutions. — Resolution 16-578, the “Monte Carlo Night Party Licensure Amendment Rulemaking Emergency Approval Resolution of 2006”, was approved effective March 7, 2006.

§ 3-1323. Licenses to conduct bingo games, raffles, and Monte Carlo night parties.

(a) No person, firm, partnership, association, organization, or corporation shall sponsor, conduct, or hold a bingo game, raffle, or Monte Carlo night party in the District of Columbia without a license issued by the Board.

(b) The Board may issue a license under this section to a person, firm, partnership, association, organization, or corporation engaged in or existing

for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes that conducts an activity to which contributions are deductible for federal or municipal income tax purposes if the applicant:

- (1) Is incorporated in the District of Columbia as a not-for-profit corporation as defined by Chapter 4;
- (2) Has at least 20 members in good standing, if an association or organization;
- (3) Is authorized by its constitution, articles, charter, or bylaws to further a lawful purpose in the District of Columbia;
- (4) Operates without profit to its partners or members;
- (5) Permits no part of its net earnings to inure to the benefit of a private shareholder, partner, employee, or individual; and
- (6) Has been in existence for not less than 1 year immediately preceding application for a license, during which time the applicant's membership actively engaged in furthering the lawful purpose authorized by its constitution, articles, charter, or bylaws.

(b-1)(1) The Board may issue a license to sell raffle tickets in the District of Columbia to any person, firm, partnership, association, organization, or corporation that is incorporated in Maryland or in Virginia as a not-for-profit corporation or is organized in Maryland or Virginia as a religious or not-for-profit organization if the applicant:

- (A) Is engaged in or exists for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes, for which contributions are deductible for federal, state, or municipal income tax purposes;
- (B) Operates without profit to its members;
- (C) Permits no part of any net earnings to inure to the benefit of any private shareholder, partner, employee, or individual;
- (D) Is authorized by its constitution, articles of incorporation, charter, or bylaws to further a lawful purpose in its state of incorporation or organization that is also a lawful purpose in the District of Columbia;
- (E) Has been in existence for not less than 1 year immediately preceding application for a license, during which 1-year period a bona fide membership actively engaged in furthering the lawful purpose authorized by its constitution, articles of incorporation, charter, or bylaws has existed;
- (F) Has at least 20 members in good standing, all of whom are residents of the applicant's state of incorporation or organization or the District of Columbia;
- (G) Holds the raffle draw in the applicant's state of incorporation or organization or in the District;
- (H) Has obtained any license required outside the District of Columbia for the conduct of the raffle from the relevant licensing authority; and
- (I) Guarantees that 30% or more of the net proceeds from the raffle shall be paid to persons, firms, partnerships, associations, organizations, or corporations that meet the licensing requirements of subsection (b) of this section or shall inure to the benefit of programs or activities of the applicant that are conducted in the District of Columbia.

(2) The Board shall, within 60 days of May 21, 1988, issue rules to implement the provisions of this subsection. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirement imposed upon the Board by subchapter I of Chapter 5 of Title 2.

(3) To the extent that existing rules issued by the Board are not inconsistent with the provisions of this subsection, those rules shall continue to apply to the issuance of licenses under this section until the rules required by paragraph (2) of this subsection become effective.

(c) The Board may issue a license under this section to a senior citizen group in accordance with rules that may be adopted by the Board pursuant to this chapter.

(d) The Board may issue a license under this section, upon application, to a citizen-service program established pursuant to § 1-1163.38, in accordance with rules that may be adopted by the Board pursuant to this chapter.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(4), 34 DCR 900; Mar. 9, 1988, D.C. Law 7-83, § 2, 34 DCR 8119; May 21, 1988, D.C. Law 7-119, § 2, 35 DCR 2690; July 2, 2011, D.C. Law 18-378, § 3(a), 58 DCR 1720; Apr. 27, 2012, D.C. Law 19-124, § 501(l), 59 DCR 1862.)

Prior Codifications. — 1981 Ed., § 2-2523.

Effect of amendments. — D.C. Law 18-378, in subsec. (b)(1), substituted “Chapter 4 of Title 29” for “Chapter 3 of Title 29 or organized in the District of Columbia as a religious or not-for-profit organization”.

D.C. Law 19-124, in subsec. (d), substituted “§ 1-1163.38” for “§ 1-1104.03”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 401(l) of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Amendment Act of 2012 (D.C. Act 19-298, January 29, 2012, 59 DCR 683).

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-220. — For legislative history of D.C. Law 6-220, see Historical and Statutory Notes following § 3-1305.

Legislative history of Law 7-83. — Law 7-83, the “Nonprofit Raffle Licensing Amendment Temporary Act of 1987,” was introduced in Council and assigned Bill No. 7-356. The Bill was adopted on first and second readings on November 10, 1987 and November 24, 1987, respectively. Signed by the Mayor on December 10, 1987, it was assigned Act No. 7-118 and transmitted to both Houses of Congress for its review.

Legislative history of Law 7-119. — Law 7-119, the “Nonprofit Raffle Licensing Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-359, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-165 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — Law 18-378, the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009”, was introduced in Council and assigned Bill No. 18-500, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

Legislative history of Law 19-124. — Law 19-124, the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011”, was introduced in Council and assigned Bill No. 19-511, which was referred to the Committee on Government Operations. The Bill was

adopted on first and second readings on December 6, 2011, and December 20, 2011, respectively. Signed by the Mayor on February 27, 2012, it was assigned Act No. 19-318 and trans-

mitted to both Houses of Congress for its review. D.C. Law 19-124 became effective on April 27, 2012.

§ 3-1324. Rules and regulations governing conduct of bingo and raffles.

The Board shall adopt rules and regulations governing the conduct of bingo and raffles to insure the integrity of the conduct of bingo and raffles, to protect the economic welfare and interests in fair and honest play of bingo and raffles participants. Such rules and regulations shall include, but not be limited to: Specific application requirements and the form thereof; the terms, conditions, and rules for bingo and raffles; amount of or value of prizes; the premises to be utilized and the terms of such use; the occasions on and frequency with which bingo and raffles may be conducted; and the definition and use of gross receipts from the conduct of bingo and raffles. The Board shall have the authority to impose a fine of not more than \$1,000 for any violation of such rules and regulations. The Board also shall have the authority to suspend the license of any person, firm, partnership, association, organization, or corporation for a period not to exceed 60 days for violation of such rules and regulations. All fines imposed pursuant to this section shall be paid over to the Board which shall place any such fines in the Fund. Any person, firm, partnership, association, organization, or corporation fined or suspended pursuant to this section shall have a right to a hearing before the Board and, in the event of its affirmation of such fine or suspension, the right to appeal such fine or suspension to the Superior Court of the District of Columbia.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2524.
Legislative history of Law 3-172. — For

legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

§ 3-1325. Designation of individual responsible for proper utilization of receipts; financial responsibility bond; license fees.

Each person, firm, partnership, association, organization, or corporation conducting bingo and raffles shall designate an individual as responsible for the proper utilization of gross receipts in a manner not in violation of or contrary to the rules and regulations of the Board and to insure that utilization of such gross receipts is in accordance with and sanctioned by such rules and regulations. A financial responsibility bond with sufficient sureties shall be given to the Board to insure the faithful discharge of the duties of the responsible member for the proper utilization of gross receipts and payment of all required fees and taxes. Said financial responsibility bond and said fees shall be determined by the Board. Each person, firm, partnership, association, organization, or corporation shall pay to the Board a license fee for each occasion proposed for the conduct of bingo and raffles; an annual license fee for each person designated to conduct bingo and raffles on each proposed occasion;

and an annual license fee for each member responsible for the proper utilization of gross receipts.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2525. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1326. License to supply bingo equipment and supplies.

(a) No person, firm, partnership, association, organization, or corporation licensed by the Board to conduct bingo shall purchase or receive bingo equipment and supplies, as defined by the rules and regulations of the Board, except from a person, firm, partnership, association, organization, or corporation licensed by the Board to supply such equipment. Any person, firm, partnership, association, organization, or corporation intending to sell, supply, or distribute bingo equipment and supplies shall apply for a suppliers license on an application form prescribed by the Board. Such application shall include, but not be limited to: The name and address of the applicant; a designation of the type of business organization of the applicant and the date and place of its original establishment; the name and address of each officer, director, shareholder, partner, or other person with an ownership interest in the applicant business; a statement showing the gross receipts realized in the preceding year on the sale or distribution of bingo supplies and equipment to licensed organizations; the name and address of any supplier of bingo supplies and equipment to the applicant; the number of years the applicant has been in the business of supplying bingo supplies and equipment; and, if the applicant business is organized outside of the District, the name and address of a resident agent who is authorized to be served legal documents and receive notices, orders, and directives of the Board.

(b) Any license issued pursuant to this section shall be issued as a General Sales endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 20, 1999, D.C. Law 12-261, § 2003(e), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(d), 50 DCR 6913.)

Prior Codifications. — 1981 Ed., § 2-2526.

Effect of amendments. — D.C. Law 15-38, in subsec. (b), substituted “General Sales endorsement to a basic business license under the basic” for “Class B General Sales endorsement to a master business license under the master”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(d) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 15-38. — For Law 15-38, see notes following § 3-405.

§ 3-1327. Suppliers' price list; fees; financial responsibility bonds; maintenance of books and records.

Each application for a suppliers' license, or renewal thereof, shall be accompanied by a certified copy of the price list of the applicant's bingo supplies and equipment, a fee, and a financial responsibility bond. Said fees and financial responsibility bonds shall be set by the Board. Each licensed supplier shall maintain books and records in such manner as to enable the Board to determine the gross sales of bingo supplies and equipment.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2527. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1328. Persons ineligible for suppliers' license.

(a) The Board, in its discretion, may determine the following persons not to be eligible to receive a suppliers' license: A person convicted of a felony who either has not received a pardon or has not been released from parole or probation for at least 5 years; a person who is or has been a professional gambler or gambling promoter; a public officer or employee; or a business in which a person disqualified under provisions of this section is employed or active or in which a person is married to, in a domestic partnership with, or related in the 1st degree of kinship to such person who has an interest of more than 10 percent in the business.

(b) For the purposes of this section, the term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Sept. 12, 2008, D.C. Law 17-231, § 11(b), 55 DCR 6758.)

Prior Codifications. — 1981 Ed., § 2-2528.
Effect of amendments. — D.C. Law 17-231, designated subsec. (a); in subsec. (a), substituted "married to, in a domestic partnership with," for "married"; and added subsec. (b).
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 17-231. — For Law 17-231, see notes following § 3-202.

§ 3-1329. Prohibited suppliers' activities.

No person shall sell or distribute bingo samples or equipment to any licensed organization without first having obtained a suppliers' license, but an organization which is or has been, during the preceding 12 months, licensed to conduct bingo in the District of Columbia may sell bingo supplies and equipment actually used by it in the conduct of bingo to another licensed organization. No licensed supplier shall sell bingo cards unless there is printed thereon the name, mark, or symbol of the printer or manufacturer which the supplier has registered with the Board. No person directly or indirectly connected with the manufacture, sale, or distribution of bingo supplies or equipment, and no agent, servant, or employee of such person, shall conduct, advise, or assist in the conduct of bingo; render any service to anyone

conducting or assisting in the conduct of bingo; or prepare any form required of a licensed organization pertaining to bingo. No licensed supplier, or his agent, salesman, or representative, shall, during the term of the license, sell or distribute bingo supplies or equipment to any person or organization other than a licensed supplier or licensed organization. No licensed supplier, or his authorized agent, salesman, or representative, shall be present to transact business during the conduct of bingo.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2529. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1330. Standards for bingo cards.

A standard set of bingo cards shall consist of at least 3,000 cards numbered in sequence. Each card in a set differs from all others with respect to the distribution of playing numbers. Any number of cards may be supplied to a licensed organization and sold or rented to players at any bingo occasion, provided that all cards so supplied or sold or rented are drawn from a standard set of bingo cards. On a bingo card there shall be 25 playing spaces which shall be contained within an area not less than 4 square inches. Before any bingo card becomes the property of any person, firm, partnership, association, organization, or corporation licensed to conduct bingo by the Board, there shall be imprinted or otherwise permanently marked on it a symbol assigned to the supplier by the Board and the name of the licensed person, firm, partnership, association, organization, or corporation which owns such cards. Such symbol and name need not be marked more than once on such cards. The Board shall adopt such other definitions and standards for special bingo cards, groupings of cards, and methods of securing numbers as it deems necessary. No advertising matter shall be printed or otherwise marked on any bingo card or grouping of bingo cards, except the name, mark or symbol of its manufacturer or printer, the code symbol of its licensed supplier, and the name of the licensed organization which owns it.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2530. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1331. License suspension or revocation.

Any license granted under the provisions of this chapter shall be subject to the regulations set forth by the Board and shall be subject to suspension or revocation for good cause, after giving the licensee a reasonable opportunity for a hearing, at which he shall have the right to be represented by counsel. If any license is suspended or revoked, the Board shall state the reasons for such suspension or revocation and cause an entry of such reasons to be made on the record books of the Board. Any licensee aggrieved by the action of the Board

may appeal therefrom to the Superior Court of the District of Columbia within 30 days of the final decision of the Board.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Prior Codifications. — 1981 Ed., § 2-2531. legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 3-172. — For

§ 3-1332. Aiding or abetting unauthorized bingo games, raffles, or Monte Carlo night parties; penalties.

No person shall aid or abet in the conduct of any bingo game, raffle, or Monte Carlo night party, except in accordance with a license duly issued and unsuspended or revoked by the Board. Any person convicted of violating this section shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed 6 months, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this section shall be pursuant to Chapter 18 of Title 2.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Oct. 5, 1985, D.C. Law 6-42, § 406(a), 32 DCR 4450; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(5), 34 DCR 900.)

Prior Codifications. — 1981 Ed., § 2-2532.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-220. — For legislative history of D.C. Law 6-220, see note to § 3-1305.

§ 3-1333. Forged, counterfeit or altered tickets.

No person shall: Forge or counterfeit any ticket made for the purposes of any lottery or daily numbers games; alter any number imprinted on such a ticket; offer for sale or sell any such forged, counterfeited, or altered ticket, knowing it to be such; or present any such forged, counterfeited, or altered ticket to any person engaged in carrying out this chapter; with the intent to defraud the District of Columbia or any person participating in any such lottery or daily numbers games. Any person convicted of violating this section shall be subject to a fine not to exceed \$5,000 or imprisonment not to exceed 1 year or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this section shall be pursuant to Chapter 18 of Title 2.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Oct. 5, 1985, D.C. Law 6-42, § 406(b), 32 DCR 4450.)

Prior Codifications. — 1981 Ed., § 2-2533.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 3-1332.

§ 3-1334. Gambling by minor prohibited.

No person shall knowingly permit any person under the age of 18 to participate in a game of bingo or to wager in any gambling activity authorized under this chapter. No person shall knowingly permit a person under the age of 18 years, unless accompanied by an adult, to be present in any room, office, building, or establishment where bingo, raffles, or Monte Carlo night parties is being played. Any person convicted of violating this section shall be subject to a fine not to exceed \$300 or imprisonment not to exceed 30 days or both.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(6), 34 DCR 900.)

Prior Codifications. — 1981 Ed., § 2-2534.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 6-220. — For legislative history of D.C. Law 6-220, see Historical and Statutory Notes following § 3-1322.01.

§ 3-1335. Payment of prize by or on behalf of minor.

If a person entitled to a lottery prize is under 18 years of age and the prize is less than \$5,000, the Board may require that payment of the prize be directed to an adult member of the minor's family or to a guardian of the minor in a check or draft payable to the order of the minor. If the person entitled to the prize is under 18 years of age and the prize is \$5,000 or more, the Board may direct payment to the minor by depositing the amount of the prize in any bank, to the credit of an adult member of the minor's family or to a guardian of the minor, as custodian of the minor. The person so named as custodian shall have the same duties and powers as a custodian designated under Uniform Transfers to Minors Act, Chapter 3 of Title 21. The Board is discharged of all further liability upon payment of the prize to a minor under this section.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Mar. 12, 1986, D.C. Law 6-87, § 3(a), 33 DCR 278.)

Prior Codifications. — 1981 Ed., § 2-2535.
Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.
Legislative history of Law 6-87. — Law 6-87, the "District of Columbia Uniform Transfers to Minors Act," was introduced in Council and assigned Bill No. 6-58, which was referred

to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 19, 1985, and December 3, 1985, respectively. Signed by the Mayor on December 30, 1985, it was assigned Act No. 6-115 and transmitted to both Houses of Congress for its review.

§ 3-1336. Competitive bid contracts.

(a) No Board member, officer, or employee of the Board designated to enter into contracts for the operation of any of the forms of gambling authorized by this chapter shall have any material interest, either directly or indirectly, in

any contract with a vendor for the purchase of supplies, materials, equipment, machinery, work, or other items relating to or necessary for the operation of such gambling form.

(b) The Office of Contracting and Procurement shall procure supplies, materials, equipment, machinery, work, or other items relating to or necessary for the operation of any gambling form on behalf of the Board.

(c) Repealed.

(d) No contract awarded or entered into by the Board may be assigned by the holder thereof except by specific approval of the Board.

(e) Repealed.

(f) Repealed.

(g) Contracts awarded by the Board for more than 1 year shall not be governed by the provisions of the Antideficiency Act (31 U.S.C. §§ 1341, 1342, and 1349 to 1351, and 1511 through 1519).

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 12, 1997, D.C. Law 11-259, § 310, 44 DCR 1423.)

Prior Codifications. — 1981 Ed., § 2-2536.

Legislative history of Law 3-172. — For legislative history of D.C. Law 3-172, see Historical and Statutory Notes following § 3-1301.

Legislative history of Law 11-259. — Law 11-259, the “Procurement Reform Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-705, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996,

respectively. Signed by the Mayor on January 3, 1997, it was assigned Act No. 11-526 and transmitted to both Houses of Congress for its review. D.C. Law 11-259 became effective on April 12, 1997.

References in text. — The Antideficiency Act (31 U.S.C. § 1341, 1342, and 1349 to 1351, and 1511 through 1519, referred to in subsection (g) of this section, was originally codified as 31 U.S.C. § 665 and was recodified by the Act of September 13, 1982, Pub. L. 97-258.

CASE NOTES

In general.

Award of contract for an on-line lottery system was not a “contested case” under District of Columbia code provision, and direct appeal from decision of the Lottery and Charitable Control Board awarding the contract would not lie in the Court of Appeals; hence, the superior

court properly determined that it had jurisdiction to review the Board’s decision. D.C. Code 1981, §§ 1-1502(8), 1-1509, 1-1510, 2-2536. *Network Technical Services, Inc. v. D.C. Data Co.*, 464 A.2d 133, 1983 D.C. App. LEXIS 440 (1983).

§ 3-1337. Exemption from District income tax. [Repealed].

Repealed.

(July 25, 1989, D.C. Law 8-17, § 3, 36 DCR 4160.)

Prior Codifications. — 1981 Ed., § 2-2537.

Legislative history of Law 8-17. — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the

Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

Editor’s notes. — Application of Law 8-17: Section 12 of D.C. Law 8-17 provided that § 2(a), (b) and (c) and 3 shall apply to all taxable years beginning after December 31, 1988. Section 2(d) and (e) shall apply to all

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taxable periods beginning after September 30, 1989. All other sections of the act shall apply as of July 1, 1989.

CHAPTER 13A. MOTOR VEHICLE THEFT PREVENTION COMMISSION.

Sec.

3-1351. Definitions.

3-1352. Establishment of Motor Vehicle Theft Prevention Commission.

3-1353. Appointment; terms of office; removal; compensation.

Sec.

3-1354. Powers of Commission.

3-1355. Annual audit and report.

3-1356. [Repealed].

3-1357. Payments into Fund.

3-1358. Expenditures from Fund.

§ 3-1351. Definitions.

For the purposes of this chapter, the term:

(1) “Commission” means the Motor Vehicle Theft Prevention Commission established by § 3-1352.

(2) “Fund” means the General Fund of the District of Columbia.

(3) “Motor vehicle” shall have the same meaning as provided in § 50-1501.01(1).

(July 18, 2008, D.C. Law 17-197, § 2, 55 DCR 6277; Sept. 14, 2011, D.C. Law 19-21, § 9050(a)(1), 58 DCR 6226.)

Effect of amendments. — D.C. Law 19-21 substituted “General Fund of the District of Columbia” for “Motor Vehicle Theft Prevention Fund established by § 3-1356”.

Legislative history of Law 17-197. — Law 17-197, the “Motor Vehicle Theft Prevention Act of 2008”, was introduced in Council and assigned Bill No. 17-138 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second read-

ings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 23, 2008, it was assigned Act No. 17-394 and transmitted to both Houses of Congress for its review. D.C. Law 17-197 became effective on July 18, 2008.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 3-101.01.

Editor’s notes. — Section 7093 of D.C. Law 17-219 repealed section 11 of D.C. Law 17-197.

§ 3-1352. Establishment of Motor Vehicle Theft Prevention Commission.

(a) There is established a Motor Vehicle Theft Prevention Commission.

(b) The purpose of the Commission is to improve and support motor vehicle theft law enforcement, prosecution, prevention, and community-education programs to reduce the incidence of motor vehicle theft in the District of Columbia. The Commission shall focus on strategies to improve public awareness/prevention, law enforcement, prosecution, and juvenile intervention.

(July 18, 2008, D.C. Law 17-197, § 3, 55 DCR 6277.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

§ 3-1353. Appointment; terms of office; removal; compensation.

(a) The Commission shall consist of the following 9 members:

(1) The Chief of the Metropolitan Police Department, or his or her designee at the level of Assistant Chief;

(2) The Commissioner of the Department of Insurance, Securities, and Banking, or his or her designee at the level of Deputy Commissioner;

(3) The Director of the Department of Motor Vehicles, or his or her designee at the level of Deputy Director; and

(4) Six members appointed by the Mayor, subject to the advice and consent of the Council, in accordance with § 1-523.01, as follows:

(A) Two public members who shall be both owners of registered motor vehicles in and residents of the District of Columbia;

(B) One representative of an insurance company that issues motor vehicle insurance policies in the District of Columbia;

(C) Two members with significant experience in motor vehicle theft issues; and

(D) One member who is either a fleet owner or a rental vehicle carrier representative doing business in the District of Columbia.

(b) Except as provided in subsection (c) of this section, the members appointed pursuant to subsection (a)(4) of this section shall serve for a term of 3 years.

(c) The terms of the members first appointed pursuant to subsection (a)(4) of this section shall be as follows:

(1) One member appointed pursuant to subsection (a)(4)(A) of this section and the member appointed pursuant to subsection (a)(4)(B) of this section shall be appointed to terms to expire on June 30, 2009.

(2) One member appointed pursuant to subsection (a)(4)(A) of this section and one member appointed pursuant to subsection (a)(4)(C) of this section shall be appointed to terms to expire on June 30, 2010.

(3) One member appointed pursuant to subsection (a)(4)(C) of this section and the member appointed pursuant to subsection (a)(4)(D) of this section shall be appointed to terms to expire on June 30, 2011.

(d) Members of the Commission shall be eligible for reappointment.

(e) A vacancy on the Commission shall be filled in the same manner that the original appointment was made. A person appointed to fill a vacancy shall serve only for the unexpired term of the original appointment, but may be reappointed to one or more additional terms.

(f) The Mayor shall designate one of the members appointed pursuant to subsection (a)(4)(A) of this section to serve as Chair of the Commission, with the advice and consent of the Council by resolution. The Chair shall be designated to serve for a period of 3 years or until the expiration of the member's term, whichever shall occur earlier. The Chair shall be eligible for reappointment.

(g)(1) The Mayor shall remove a member of the Commission for failing to establish or maintain District residency (where District residency is a requirement of appointment). The Mayor may remove a member of the Commission for misconduct or neglect of duty, or for other cause as defined by the Commission in its bylaws.

(2) A member of the Commission who is indicted for the commission of a felony shall be automatically suspended from serving on the Commission. Upon a determination of guilt, the term of the Commission member shall be

automatically terminated. Upon acquittal or dismissal of the prosecution, the term of the Commission member shall be automatically reinstated.

(h) Members of the Commission shall serve without compensation, but shall be entitled to receive reimbursement for reasonable expenses incurred while actually performing duties vested in the Commission.

(i) A quorum shall consist of the presence of 5 or more members. A quorum shall be necessary for the Commission to conduct its business.

(j) The Commission shall meet at least quarterly.

(k) All meetings of the Commission shall be subject to § 1-207.42.

(July 18, 2008, D.C. Law 17-197, § 4, 55 DCR 6277.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

§ 3-1354. Powers of Commission.

The Commission may:

(1) Make grants and provide financial support to:

(A) Law enforcement and correctional agencies, prosecutors, the judiciary, and community organizations for programs designed primarily to reduce motor vehicle theft and to improve the administration of motor vehicle theft laws; and

(B) Law enforcement and prosecutorial agencies to purchase new technology and provide training related primarily to motor vehicle theft;

(2) Conduct programs designed to inform owners of motor vehicles about the financial and social costs of motor vehicle theft and suggest to those owners methods for preventing motor vehicle theft;

(3) Conduct or commission studies to assess the scope of motor vehicle theft and to analyze criminal justice policies, programs, plans, and methods to combat motor vehicle theft;

(4) Develop and sponsor the implementation of plans and strategies to combat motor vehicle theft and to improve the administration of the motor vehicle theft laws, and provide an effective forum for identification of critical problems associated with motor vehicle theft;

(5) Coordinate the development, adoption, and implementation of plans and strategies relating to interagency or intergovernmental cooperation with respect to motor vehicle theft law enforcement in the District of Columbia;

(6) Promulgate bylaws to govern the operations of the Commission;

(7) Enter into contracts for goods and services;

(8) Hire employees, consultants, and contractors to administer the Commission and effectuate the purposes of the Commission, subject to the financial limit in § 3-1358(a)(2);

(9) Establish priority for, allocate, disburse, contract for, and spend funds in the Fund to effectuate the purposes of the Commission, except as restricted by § 3-1358;

(10) Apply for, solicit, or receive funds for deposit into the Fund that are made available to the Commission from any source to effectuate the purposes of the Commission;

(11) Accept non-monetary contributions, including the services of individuals, mailings, printing, office equipment, facilities, and supplies that are necessary or useful to carry out the functions of the Commission; provided, that non-monetary contributions shall not be included in the costs of administration limitation prescribed by § 3-1358(a)(2); and

(12) Exercise such other power as is usually possessed by private business organizations organized under the laws of the District, to the extent that the exercise of such powers is to effectuate the purposes of the Commission and is not inconsistent with federal or District law.

(July 18, 2008, D.C. Law 17-197, § 5, 55 DCR 6277.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

§ 3-1355. Annual audit and report.

Beginning in 2008, the Commission shall provide an annual report to the Mayor and the Council by November 30th of each year. The report shall include a description of the Commission's activities for the prior fiscal year and a financial statement relating to the activities and business of the Commission during the preceding fiscal year certified as to its accuracy by an independent auditor.

(July 18, 2008, D.C. Law 17-197, § 6, 55 DCR 6277.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

§ 3-1356. Establishment of Motor Vehicle Theft Prevention Fund. [Repealed].

Repealed.

(July 18, 2008, D.C. Law 17-197, § 7, 55 DCR 6277; Sept. 24, 2011, D.C. Law 19-21, § 9050(a)(2), 58 DCR 6226.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

history of Law 19-21, see notes under § 3-101.01.

Legislative history of Law 19-21. — For

§ 3-1357. Payments into Fund.

The following shall be deposited into the Fund:

(1) All grants and revenues received by the Commission, including those received pursuant to § 3-1354(10).

(2) Fines paid for violations of § 31-2413(a). The maximum amount of fines deposited into the Fund from this paragraph shall be \$275,000 in fiscal year 2009, \$750,000 in fiscal year 2010, \$1 million in fiscal year 2011, and increased annually, beginning in fiscal year 2012, by 5%.

(3) All interest earned on the deposits of the Fund.

(July 18, 2008, D.C. Law 17-197, § 8, 55 DCR 6277; Aug. 16, 2008, D.C. Law 17-219, § 3018, 55 DCR 7598.)

Effect of amendments. — D.C. Law 17-219, in par. (2), inserted “The maximum amount of fines deposited into the Fund from this paragraph shall be \$275,000 in fiscal year 2009, \$750,000 in fiscal year 2010, \$1 million in fiscal year 2011, and increased annually, beginning in fiscal year 2012, by 5%.”

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

Legislative history of Law 17-219. — For Law 17-219, see notes following § 3-1213.01.

Short title. — Short title: Section 3017 of D.C. Law 17-219 provided that subtitle H of title III of the act may be cited as the “Motor Vehicle Theft Prevention Commission Annual Maximum Appropriations Amendment Act of 2008”.

§ 3-1358. Expenditures from Fund.

(a) The Commission may expend money in the Fund:

(1) To effectuate the purposes of the Commission pursuant to the powers set forth in § 3-1354; and

(2) To pay the Commission’s costs to administer the Commission and the Fund; provided, that money expended for this purpose shall not in any fiscal year exceed 15% of the amount of funds deposited in the Fund during the same fiscal year.

(b) Grants and financial support pursuant to § 3-1354(1) shall be used to complement, not supplement, existing resources, and to expand or encourage new initiatives to reduce the incidence of motor vehicle theft in the District of Columbia.

(July 18, 2008, D.C. Law 17-197, § 9, 55 DCR 6277.)

Legislative history of Law 17-197. — For Law 17-197, see notes following § 3-1351.

CHAPTER 14. SPORTS AND ENTERTAINMENT COMMISSION [REPEALED].

Sec.

3-1401 to 3-1419. [Repealed].

§ 3-1401. Declaration of policy. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 2, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4001.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — Law 10-152, the “Omnibus Sports Consolidation Act of 1994,” was introduced in Council and assigned Bill No. 10-424, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on May 3, 1994, and June 7, 1994, respectively. Signed by the Mayor on June 30, 1994, it was assigned Act No. 10-265

and transmitted to both Houses of Congress for its review. D.C. Law 10-152 became effective on August 23, 1994.

Legislative history of Law 12-115. — Law 12-115, the “Omnibus Sports Consolidation Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-417. The Bill was adopted on first and second readings on February 3, 1998, and March 3, 1998, respectively. Signed by the Mayor on March 17, 1998, it was assigned Act No. 12-312 and transmitted to both Houses of Congress for its review. D.C. Law 12-115 became effective on June 6, 1998.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Construction of Law 10-152. — 10-152: Section 19(c) of D.C. Law 10-152 provided that the provisions of the act are to be liberally construed so as to effectuate those powers which are specifically enumerated.

§ 3-1402. Definitions. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 3, 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(a), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4002.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of Sports and Entertainment Commission Financial Affairs Temporary Amendment Act of 2003 (D.C. Law 15-72, February 25, 2004, law notification 51 DCR 3364).

Emergency legislation. — For temporary amendment of section, see § 8 (a) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) amendment of section, see § 2(a) of Sports and Entertainment Commission Financial Affairs Emergency Amendment Act of 2003 (D.C. Act 15-173, October 6, 2003, 50 DCR 9177).

For temporary (90 day) repeal, see § 2082(j)

of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-246. — Law 10-246, the “Recreation Act of 1994,” was introduced in Council and assigned Bill No. 10-741, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on Novem-

ber 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on January 13, 1995, it was assigned Act No. 10-393 and transmitted to both Houses of Congress for its review. D.C. Law 10-246 became effective on March 23, 1995.

Legislative history of Law 12-115. — For

legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1403. Establishment of the District of Columbia Sports and Entertainment Commission. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 4, 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(b), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4003.

Emergency legislation. — For temporary amendment of section, see § 8 (b) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-246. — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Transfer of Functions. — Transfer of nonmilitary functions to Sports Commission: Section 19 of D.C. Law 10-152, provided, in part, that the Sports Commission shall assume all nonmilitary functions of the Armory Board as are set forth in § 2-306 repealed and that all references to the Armory Board in subchapter II of Chapter 3 of Title 2 subchapter II of Chapter 3 of Title 3, 2001 Ed. are intended to be references to the Sports Commission unless the clear meaning requires otherwise.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

Annual reports of Sports Commission: Section 20 of D.C. Law 10-152 provided that the Sports Commission shall file with the Mayor and the Council each year a financial statement relating to the activities and business of the Sports Commission during the preceding fiscal year certified as to accuracy by an independent auditor.

Section 2 of D.C. Law 10-206 amended § 19 of D.C. Law 10-152 by adding (e) and (f) which contain provisions authorizing the Armory Board to exercise its nonmilitary functions and authority on an interim basis and ratifying actions taken by the Board during the interim period.

For temporary amendment of D.C. Law 10-152, authorizing the Armory Board to exercise its nonmilitary functions and authority on an interim basis, see § 2 of the Armory Board Interim Authority Emergency Amendment Act of 1994 (D.C. Act 10-325, October 14, 1994, 41 DCR 7027) and § 2 of the Armory Board Interim Authority Congressional Adjournment Emergency Amendment Act of 1995 (D.C. Act 11-5, January 19, 1995, 42 DCR 545).

Title of land and improvements acquired by Commission: Section 601(g) of D.C. Law 10-188 provided that all land and improvements on the land acquired by the Sports Commission shall be held in the name of the Sports Commission except that title to the property shall not be transferred by the Sports Commission to any person or entity other than the District of Columbia government.

§ 3-1404. Board members qualifications; terms of office; removal; compensation. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 5, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(a), 41 DCR 5333; Mar. 23, 1995, D.C. Law 10-246, § 8(c), 42 DCR 452; July 20, 1996, D.C. Law 11-145, § 2, 43 DCR 2842; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; June 12, 1999, D.C. Law 12-285, § 4(b), 46 DCR 1355; Oct. 19, 2002, D.C. Law 14-213, § 9, 49 DCR 8140; Jan. 29, 2008, D.C. Law 17-84, § 2, 54 DCR 11891; Mar. 25, 2009, D.C. Law 17-353, § 221, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4004.

Temporary Amendment of Section. —

For temporary (225 day) amendment of section, see § 2 of Omnibus Sports Consolidation Act of 1994 Temporary Amendment Act of 1995 (D.C. Law 11-67, October 26, 1995, law notification 42 DCR 6172).

Section 2 of D.C. Law 17-48, in subsec. (a), substituted “13” for “11”, “9” for “8”, and “with similar responsibilities, and a District government official designated by the Mayor,” for “with similar responsibilities.”

Section 4(b) of D.C. Law 17-48 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 8 (c) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary amendment of section, see § 2 of the Omnibus Sports Consolidation Act of 1994 Emergency Amendment Act of 1995 (D.C. Act 11-102, July 21, 1995, 42 DCR 4009).

For temporary amendment of section, see § 2(a) and (b) of the Omnibus Sports Consolidation Act Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-275, May 29, 1996, 43 DCR 2966).

For temporary amendment of section, see § 4(b) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

For temporary amendment of section, see § 4(b) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

For temporary (90-day) amendment of section, see § 4(b) of the Confirmation Act Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-92, June 4, 1999, 46 DCR 5330).

For temporary (90 day) amendment of section, see § 2 of Omnibus Sports Consolidation Emergency Amendment Act of 2007 (D.C. Act 17-76, July 25, 2007, 54 DCR 7628).

For temporary (90 day) amendment of section, see § 2 of Omnibus Sports Consolidation Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-151, October 18, 2007, 54 DCR 10898).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second

Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

Legislative history of Law 10-246. — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 11-145. — Law 11-145, the “Omnibus Sports Consolidation Act Amendment Act of 1996,” was introduced in Council and Assigned Bill No. 11-349, which was referred to the Committee on Public Services and Regional Authorities. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 20, 1996, it was assigned Act No. 11-269 and transmitted to both Houses of Congress for its review. D. C. Law 11-145 became effective on July 20, 1996.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-285. — Law 12-285, the “Confirmation Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-261. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Vetoed by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999, and the Bill was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12-285 became effective on June 12, 1999.

Legislative history of Law 14-213. — Law 14-213, the “Technical Amendments Act of

2002", was introduced in Council and assigned Bill No. 14-671, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 26, 2002, it was assigned Act No. 14-459 and transmitted to both Houses of Congress for its review. D.C. Law 14-213 became effective on October 19, 2002.

Legislative history of Law 17-84. — Law 17-84, the "Omnibus Sports Consolidation Amendment Act of 2007", was introduced in Council and assigned Bill No. 17-286 which was referred to the Committee on Economic Development.

The Bill was adopted on first and second readings on October 23, 2007, and November 6, 2007, respectively. Signed by the Mayor on November 26, 2007, it was assigned Act No. 17-195 and transmitted to both Houses of Congress for its review. D.C. Law 17-84 became effective on January 29, 2008.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 3-308.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1405. Executive Director. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 6, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(b), 41 DCR 5333; Mar. 23, 1995, D.C. Law 10-246, § 8(d), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Feb. 6, 2008, D.C. Law 17-108, § 207(a), 54 DCR 10993; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4005.

Emergency legislation. — For temporary amendment of section, see § 8 (d) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 3-1404.

Legislative history of Law 10-246. — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 17-108. — For Law 17-108, see notes following § 3-1303.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1406. Powers. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 7, 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(e), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4006.

Emergency legislation. — For temporary amendment of section, see § 8 (e) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-246. — For

legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1407. Power to develop, construct and maintain facilities. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 8, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(c), 41 DCR 5333; Mar. 23, 1995, D.C. Law 10-246, § 8(f), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4007.

Emergency legislation. — For temporary amendment of section, see § 8 (f) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 3-1404.

Legislative history of Law 10-246. — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1408. Power to own and operate professional sports franchises. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 9, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4008.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1409. Creation of Fund, transfer of monies. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 10, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4009.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1410. Financial affairs. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 11, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Oct. 3, 2001, D.C. Law 14-28, § 1602, 48 DCR 6981; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4010.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 4 of Real Property Tax Rates for Tax Year 1996 Temporary Amendment Act of 1995 (D.C. Law 11-86, February 10, 1996, law notification 43 DCR 1312).

For temporary (225 day) amendment of section, see § 2(b) of Sports and Entertainment Commission Financial Affairs Temporary Amendment Act of 2003 (D.C. Law 15-72, February 25, 2004, law notification 51 DCR 3364).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1502 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

For temporary (90 day) amendment of section, see § 2(b) of Sports and Entertainment Commission Financial Affairs Emergency Amendment Act of 2003 (D.C. Act 15-173, October 6, 2003, 50 DCR 9177).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 14-28. — For Law 14-28, see notes following § 3-101.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1411. Delegation of bond and note issuance authority. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 12, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4011.

Emergency legislation. — For temporary

(90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of

2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

§ 3-1412. Bonds; issuance; terms. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 13, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(d), 41 DCR 5333; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4012.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 3-1404.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1413. Public or private bond sale. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 14, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(e), 41 DCR 5333; Apr. 18, 1996, D.C. Law 11-110, § 8, 43 DCR 530; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4013.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 3-1404.

Legislative history of Law 11-110. — Law

11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1414. Tax exemption. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 15, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4014.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1415. Conflicting relationships or interests. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 16, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4015.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of Sports Commission Conflict of Interest Temporary Amendment Act of 1996 (D.C. Law 11-141, June 13, 1996, law notification 43 DCR 3369).

Emergency legislation. — For temporary amendment of section, see § 2 of the Sports Commission Emergency Amendment Act of 1996 (D.C. Act 11-226, March 15, 1996, 43 DCR 1534).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1416. Local, small, and disadvantaged business program. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 17, 41 DCR 4636; Sept. 28, 1994, D.C. Law 10-188, § 601(f), 41 DCR 5333; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4016.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year

2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-188. — For

legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 3-1404.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1417. Employees of the Sports and Entertainment Commission. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 18, 41 DCR 4636; Mar. 23, 1995, D.C. Law 10-246, § 8(g), 42 DCR 452; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Feb. 6, 2008, D.C. Law 17-108, § 207(b), 54 DCR 10993; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4017.

Emergency legislation. — For temporary amendment of section, see § 8 (g) of the Recreation Emergency Act of 1995 (D.C. Act 11-20, February 28, 1995, 42 DCR 1175).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 10-246. — For legislative history of D.C. Law 10-246, see Historical and Statutory Notes following § 3-1402.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 17-108. — For Law 17-108, see notes following § 3-1303.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

Editor's notes. — Construction of Law 10-152: See note to § 3-1401.

§ 3-1418. Assumption of nonmilitary functions of Armory Board; construction; effect of dissolution of Sports and Entertainment Commission. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 19, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4018.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of Armory Board Interim Authority Temporary Amendment Act of 1994 (D.C. Law 10-206, March 14, 1995, law notification 42 DCR 1523).

Emergency legislation. — For temporary amendment of D.C. Law 10-152, authorizing the Armory Board to exercise its nonmilitary

functions and authority on an interim basis, see § 2 of the Armory Board Interim Authority Emergency Amendment Act of 1994 (D.C. Act 10-325, October 14, 1994, 41 DCR 7027) and § 2 of the Armory Board Interim Authority Congressional Adjournment Emergency Amendment Act of 1995 (D.C. Act 11-5, January 19, 1995, 42 DCR 545).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second

Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For

legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

§ 3-1418.01. Development, construction, and leasing of ballpark. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 19a, as added Apr. 8, 2005, D.C. Law 15-320, § 109, 52 DCR 1757; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 15-320. — Law 15-320, the “Ballpark Omnibus Financing and

Revenue Act of 2004”, was introduced in Council and assigned Bill No. 15-1028, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and second readings on November 30, 2004, and December 21, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-717 and transmitted to both Houses of Congress for its review. D.C. Law 15-320 became effective on April 8, 2005.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

§ 3-1419. Annual report. [Repealed].

Repealed.

(Aug. 23, 1994, D.C. Law 10-152, § 20, 41 DCR 4636; June 6, 1998, D.C. Law 12-115, § 2, 45 DCR 1957; Feb. 6, 2008, D.C. Law 17-108, § 207(c), 54 DCR 10993; Mar. 3, 2010, D.C. Law 18-111, § 2082(j), 57 DCR 181.)

Prior Codifications. — 1981 Ed., § 2-4019.

Emergency legislation. — For temporary (90 day) repeal, see § 2082(j) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal, see § 2082(j) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 10-152. — For legislative history of D.C. Law 10-152, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 12-115. — For legislative history of D.C. Law 12-115, see Historical and Statutory Notes following § 3-1401.

Legislative history of Law 17-108. — For Law 17-108, see notes following § 3-1303.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 3-343.01.

CHAPTER 14A. DISTRICT OF COLUMBIA UNIFORM LAW COMMISSION.

Sec.

3-1431. Uniform Law Commission.

3-1432. Commission membership and organization.

Sec.

3-1433. Commission responsibilities and duties.

§ 3-1431. Uniform Law Commission.

There is established a District of Columbia Uniform Law Commission ("Commission"). Members of the Commission shall serve as the official commissioners of the District of Columbia to the National Conference of Commissioners on Uniform State Laws ("NCCUSL").

(Mar. 12, 2011, D.C. Law 18-313, § 2, 57 DCR 12401.)

Legislative history of Law 18-313. — Law 18-313, the "District of Columbia Uniform Law Commission Act of 2010", was introduced in Council and assigned Bill No. 18-579, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first

and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 9, 2010, it was assigned Act No. 18-634 and transmitted to both Houses of Congress for its review. D.C. Law 18-313 became effective on March 12, 2011.

§ 3-1432. Commission membership and organization.

(a) The Commission shall consist of the following commissioners:

(1) Three commissioners appointed by the Mayor;

(2) One commissioner appointed by the Council of the District of Columbia;

(3) One commissioner appointed by the Chief Judge of the Superior Court of the District of Columbia;

(4) The General Counsel to the Council of the District of Columbia, or his or her designee; and

(5) Any resident of the District of Columbia who, because of long service in the cause of the uniformity of state legislation, shall have been elected a life member of the NCCUSL.

(b) To be eligible to serve as a member of the Commission, an individual must be a resident of the District of Columbia and must be a member in good standing of the District of Columbia Bar.

(c) A commissioner appointed pursuant to subsection (a)(1), (2), or (3) of this section shall serve a term of 3 years, beginning on July 1 of the year of appointment, or until a successor is appointed, whichever is later. A commissioner appointed to fill a vacancy on the Commission shall serve for the unexpired portion of the term, or until a successor is appointed, whichever is later.

(d) A person serving as a NCCUSL commissioner as of March 12, 2011, may continue to serve until the expiration of his or her term, or until a successor is appointed, whichever occurs later.

(Mar. 12, 2011, D.C. Law 18-313, § 3, 57 DCR 12401.)

Legislative history of Law 18-313. — For history of Law 18-313, see notes under § 3-1431.

§ 3-1433. Commission responsibilities and duties.

(a) Commissioners shall advise the Mayor, the Council, and Council committees concerning:

(1) Proposals for uniform and model state laws;

(2) The effect that the proposals would have on the laws of the District of Columbia; and

(3) Other matters pertinent to the desirable uniformity in legislation between the District and other jurisdictions.

(b)(1) Each commissioner shall attend the meetings of the NCCUSL and, both within and out of the NCCUSL, do all in his or her power to promote uniformity in state laws in all subjects in which uniformity is desirable and practicable.

(2) Each commissioner may:

(A) Participate in all the activities of the NCCUSL;

(B) Participate in the votes of the states and other votes of the NCCUSL;

(C) Be appointed to serve on any committee of the NCCUSL; and

(D) Be appointed or elected to any office of the NCCUSL.

(c) The commissioners shall submit a report to the Mayor, the Chairperson of the Council, and the Chief Judge of the Superior Court of the District of Columbia after each annual meeting, and from time to time thereafter as the commissioners consider proper, summarizing the activities of the Commission and the NCCUSL during the previous year.

(Mar. 12, 2011, D.C. Law 18-313, § 4, 57 DCR 12401.)

Legislative history of Law 18-313. — For history of Law 18-313, see notes under § 3-1431.

CHAPTER 14B. COMMISSION ON AFRICAN-AMERICAN AFFAIRS.

Sec.

3-1441. Establishment of the Commission on African-American Affairs.

Sec.

3-1442. Commission organization; members; meetings.

§ 3-1441. Establishment of the Commission on African-American Affairs.

There is established a Commission on African-American Affairs ("Commission") to advise the Mayor, the Council, and the public on the views and needs of African-American communities with low-economic, -education, or -health indicators in the District and to analyze the decline of African-American residents as indicated by the 2010 United States Census.

(Mar. 14, 2012, D.C. Law 19-106, § 2, 59 DCR 440.)

Legislative history of Law 19-106. — Law 19-106, the "Commission on African-American Affairs Establishment Act of 2012", was introduced in Council and assigned Bill No. 19-213, which was referred to the Committee on Aging and Community Affairs. The Bill was adopted on first and second readings on December 20,

2012, and January 4, 2012, respectively. Signed by the Mayor on January 20, 2012, it was assigned Act No. 19-281 and transmitted to both Houses of Congress for its review. D.C. Law 19-106 became effective on March 14, 2012.

§ 3-1442. Commission organization; members; meetings.

(a)(1) The Commission shall consist of 17 public, voting members appointed by the Mayor, with the advice and consent of the Council, pursuant to § 1-523.01(f)(49). Public members shall be appointed who have shown dedication to, and knowledge of, the needs of the African-American community, and with due consideration for representation from established public, nonprofit, and volunteer community organizations concerned with African-American communities with low-economic, -education, and -health indicators.

(2) Public members shall serve terms of 3 years; except, that of the initial members, 6 shall be appointed for a term of 3 years, 6 shall be appointed for a term of 2 years, and 5 shall be appointed for a term of 1 year. Public members may be reappointed, but may serve no more than 2 consecutive full terms. Terms for the initial public members shall begin on the date that a majority of the members are sworn in, which shall become the anniversary date for all subsequent appointments. When a vacancy develops on the Commission, the Mayor shall appoint, with the advice and consent of the Council, pursuant to § 1-523.01, a successor to fill the unexpired portion of the term.

(b)(1) There shall be 10 ex-officio nonvoting members as follows:

(A) The Director of the Department of Employment Services, or his or her designee;

(B) The Director of the Department of Human Services, or his or her designee;

(C) The Director of the Department of Health, or his or her designee;

(D) The Director of the Department of Housing and Community Development, or his or her designee;

(E) The Director of the Department of Public Works, or his or her designee;

(F) The Director of the Department of Consumer and Regulatory Affairs, or his or her designee;

(G) The Director of the Department of Parks and Recreation, or his or her designee;

(H) The Chancellor of the District of Columbia Public Schools, or his or her designee;

(I) The Chief of the Metropolitan Police Department, or his or her designee; and

(J) The Chief of the Fire and Emergency Medical Services Department, or his or her designee.

(2) Ex-officio members shall develop and implement policies and programs in their agencies to ensure that the purposes of this chapter are fulfilled. They shall meet with the chairperson of the Commission at least quarterly each year to assist the Mayor in coordinating plans and policies which are beneficial to the African-American communities with low-economic, -education, or -health indicators in the District.

(c) The Mayor shall appoint the chairperson of the Commission from among the public members. All members shall serve without compensation, but shall be eligible for reimbursement of expenses as provided in § 1-611.08(d).

(d) The Commission shall develop its own rules of procedure.

(e) The Commission shall meet at least once every other month. The meetings shall be held in the District and shall be open to the public. A quorum to transact business shall consist of a majority plus one of the public members.

(Mar. 14, 2012, D.C. Law 19-106, § 3, 59 DCR 440.)

Legislative history of Law 19-106. — For history of Law 19-106, see notes under § 3-1441.

SUBTITLE II. REPEALED AND EXPIRED PROVISIONS.

CHAPTER 15. ACCOUNTANTS [REPEALED].

Sec.

3-1501 to 3-1525. [Repealed].

§ 3-1501. Purpose. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 3, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-101. 1973 Ed., § 2-942.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Editor’s notes. — D.C. Law 12-261, Title I, § 1234 (46 DCR 3142), eff. April 20, 1999, provided:

“Sec. 1234. The District of Columbia Public Accounting Act of 1977, effective March 16, 1978 (D.C. Law 2-59; D.C. Code § 2-101 et seq. § 3-1501 et seq., 2001 Ed.), relating to the licensure of public accountants is repealed and authority transferred to the Board of Accountancy established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.].”

§ 3-1502. Definitions. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 3, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(a), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-102. 1973 Ed., § 2-942.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

Editor’s notes. — Revision of chapter: See note to § 3-1501.

§ 3-1503. Board of Accountancy. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 4, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-103. 1973 Ed., § 2-943.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

Editor’s notes. — Revision of chapter: See note to § 3-1501.

§ 3-1504. Fees. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 5, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-104.
1973 Ed., § 2-943.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1505. Use of title or designation — Acts declared unlawful. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 6, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(b), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-105.
1973 Ed., § 2-945.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1506. Use of title or designation — Exceptions. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 7, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(c), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-106.
1973 Ed., § 2-946.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1507. Certified public accountants — Requirements. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 8, 24 DCR 5975; Sept. 8, 1995, D.C. Law 11-40, § 2, 42 DCR 3275; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-107.
1973 Ed., § 2-947.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

torical and Statutory Notes following § 3-1501.

Editor's notes. — Revision of chapter: See note to § 3-1501.

§ 3-1508. Certified public accountants — Temporary certificate and permit. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 9, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-108. 1973 Ed., § 2-948.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1509. Registration — Public accountants. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 10, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-109. 1973 Ed., § 2-949.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1510. Registration — Foreign accountants. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 11, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-110. 1973 Ed., § 2-950.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1511. Registration — Firms composed of certified public accountants. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 12, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(d), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-111. 1973 Ed., § 2-951.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see His-

torical and Statutory Notes following § 3-1501.

Editor's notes. — Revision of chapter: See note to § 3-1501.

§ 3-1512. Registration — Firms composed of public accounts. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 13, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(e), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-112.
1973 Ed., § 2-952.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1513. Registration — Offices. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 14, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(f), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-113.
1973 Ed., § 2-953.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1514. Annual permits to practice. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 15, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(g), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-114.
1973 Ed., § 2-954.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1515. Revocation or suspension of certificate or registration or permit. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 16, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-115.
1973 Ed., § 2-955.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1516. Revocation or suspension of a firm's registration or permit. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 17, 24 DCR 5975; July 23, 1994, D.C. Law
10-38, § 80(h), 41 DCR 3010; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR
3142.)

Prior Codifications. — 1981 Ed., § 2-116.
1973 Ed., § 2-956.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1517. Hearings before the Board; periodic review. [Re- pealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 18, 24 DCR 5975; Apr. 20, 1999, D.C. Law
12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-117.
1973 Ed., § 2-957.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1518. Reinstatement. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 19, 24 DCR 5975; Apr. 20, 1999, D.C. Law
12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-118.
1973 Ed., § 2-958.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1519. Use of title or designation — Injunction against unlawful acts. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 20, 24 DCR 5975; Apr. 20, 1999, D.C. Law
12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-119.
1973 Ed., § 2-959.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1520. Use of title or designation — Penalty. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 21, 24 DCR 5975; Oct. 5, 1985, D.C. Law 6-42, § 417, 32 DCR 4450; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-120.
1973 Ed., § 2-960.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1521. Use of title or designation — Single act evidence of practice. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 22, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-121.
1973 Ed., § 2-961.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1522. Ownership of an accountant's working papers. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 23, 24 DCR 5975; July 23, 1994, D.C. Law 10-38, § 80(i), 41 DCR 3010; Apr. 18, 1996, D.C. Law 11-110, § 6(b), 43 DCR 530; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-122.
1973 Ed., § 2-962.

Editor's notes. — Revision of chapter: See note to § 3-1501.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1501.

§ 3-1523. Severability. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 24, 24 DCR 5975; Apr. 20, 1999, D.C. Law 12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-123.
1973 Ed., § 2-963.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1524. Effect of repeal of prior act. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 25, 24 DCR 5975; Apr. 20, 1999, D.C. Law
12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-124.
1973 Ed., § 2-964.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

§ 3-1525. Effective date. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-59, § 26, 24 DCR 5975; Apr. 20, 1999, D.C. Law
12-261, § 1234, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-125.
1973 Ed., § 2-965.

Editor's notes. — Revision of chapter: See
note to § 3-1501.

Legislative history of Law 12-261. — For
legislative history of D.C. Law 12-261, see His-
torical and Statutory Notes following § 3-1501.

CHAPTER 16. ARCHITECTS [REPEALED].

Subchapter I. Architects' Registration

Sec.

3-1601 to 3-1631. [Repealed].

Subchapter II. Architect Licensure and Regulation

3-1641 to 3-1698. [Repealed].

Subchapter I. Architects' Registration.

§§ 3-1601 to 3-1631. Board of Examiners and Registrars of Architects — Created; appointment; composition; qualifications; term of office; vacancies; oath of office; election of officers; rules and regulations; meetings; quorum; voting; duties of Secretary; enforcement of chapter; expenses; roster of architects; annual report; duties of Treasurer; members of Board — compensation; reimbursement for expenses; practice of architecture limited; “practice of architecture” defined; “architect” defined; holder of certificate may use title of architect; registration as architect limited to individuals; collective title permitted; exceptions to application of chapter; “building” defined; drawings and specifications to be signed; registration without examination; qualifications of applicants; examination of applicants; registration in another jurisdiction in lieu of examination; practical examination; fees; examination papers and other evidence of qualification to be filed with Board; record; renewal of certificate; persons exempted from chapter; revocation of certificate — notice; causes; procedure; appeal; attendance of witnesses and production of documents; penalty for illegal practice or misuse of title; construction; short title. [Repealed].

Repealed.

(Mar. 13, 1992, D.C. Law 9-184, § 604, 39 DCR 8208.)

Prior Codifications. — 1981 Ed., § 2-201 to 2-231.

Subchapter II. Architect Licensure and Regulation.

§ 3-1641. Definitions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 101, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-241.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 12-261. — D.C. Law 12-261, Title I, § 1235, provided:

Legislative history of Law 9-184. — “Sec.

1235. The Architect Licensure and Regulating Act of 1992, effective March 13, 1993 (D.C. Law 9-184; D.C. Code § 2-241 et seq. § 3-1641 et seq., 2001 Ed.), is repealed and authority transferred to the Board of Architecture and Interior Design established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.].”

Editor’s notes. — D.C. Law 12-261, Title I, § 1236, provided: “Sec. 1236. The Barber and Cosmetology Revision Act of 1992, effective March 17, 1993 (D.C. Law 9-245; D.C. Code § 2-421 et seq. § 3-1801 et seq., 2001 Ed.), is repealed and authority transferred to the Board of Barber and Cosmetology established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.].”

§ 3-1642. Architects registered or licensed under prior law. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 102, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-242.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor’s notes. — Revision of chapter: See note to § 3-1641.

§ 3-1643. Responsibilities of the Mayor. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 103, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-243.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor’s notes. — Revision of chapter: See note to § 3-1641.

§ 3-1651. Board of Architecture; establishment; appointment. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 201, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-251.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1652. Qualifications of members. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 202, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-252.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1653. Terms of members; filling of vacancies. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 203, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-253.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1654. Removal. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 204, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-254.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1655. Meetings; officers; quorum. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 205, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-255.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1656. Compensation. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 206, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-256.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1657. General powers and duties. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 207, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-257.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1658. Annual report. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 208, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-258.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1661. License required. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 301, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-261.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1662. Exceptions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 302, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-262.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1663. General qualifications of applicants. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 303, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-263.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1664. Application for license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 304, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-264.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1665. Examination requirements. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 305, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-265.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1666. License by reciprocity. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 306, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-266.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1667. Issuance of license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 307, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-267.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1668. Scope of license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 308, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-268.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1669. Term and renewal of license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 309, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-269.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.
 D.C. Law 12-261, Title I, § 1236, provided:

§ 3-1670. Reinstatement of expired license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 310, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-270.
Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1671. Display of license; change of address. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 311, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-271.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1672. Architect's seal required. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 312, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-272.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1673. Denials. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 313, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-273.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1674. Disciplinary actions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 314, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-274.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1675. Hearings. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 315, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-275.

Editor's notes. — Revision of chapter: See note to § 3-1641.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

§ 3-1676. Summary action. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 316, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-276.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1677. Cease and desist orders. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 317, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-277.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1678. Voluntary surrender of license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 318, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-278.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1679. Judicial and administrative review. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 319, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-279.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1680. Reinstatement of a suspended or revoked license. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 320, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-280.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1681. Partnerships and corporations established for the practice of architecture. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 401, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-281.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1691. Penalties; alternative sanctions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 501, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-291.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1692. Prosecution. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 502, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-292.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1693. Injunctions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 503, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-293.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1694. Civil actions. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 504, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-294.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1696. Transfer of personnel, records, property, and funds. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 601, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-296.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1697. Board of Examiners and Registrars of Architects abolished. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 602, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-297.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

§ 3-1698. Pending actions and proceedings; existing orders. [Repealed].

Repealed.

(Mar. 13, 1993, D.C. Law 9-184, § 603, 39 DCR 8208; Apr. 20, 1999, D.C. Law 12-261, § 1235, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-298.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1641.

Editor's notes. — Revision of chapter: See note to § 3-1641.

CHAPTER 17. BARBERS [REPEALED].

Sec.

3-1701 to 3-1719. [Repealed].

§§ 3-1701 to 3-1719. Short title; definitions; Board of Barber Examiners created; composition; qualifications; term of office; removal; vacancies; officers; records; rules and regulations; annual report; certificates of registration; prerequisites; registered apprentices; prerequisites; examinations; exceptions to examination requirements; certificate of registration — Display; renewal; refusal to issue, renew, or restore; revocation; appeal; fees; refunds; quarters for Board; compensation of Board members; appointment and compensation of clerks, inspectors, and other personnel; payment of expenses of Board; requirements for certificate of registration of barber school or college; unlawful practices; penalty; regulations for posting prices of services; fine for violation of regulations; persons exempt from chapter; severability; repeal of inconsistent laws; laws not affected; purpose. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 38(a), 40 DCR 660.)

Prior Codifications. — 1981 Ed., § 2-401 to 2-419.

CHAPTER 18. BARBERS AND COSMETOLOGISTS [REPEALED].

Sec.

3-1801 to 3-1836. [Repealed].

§ 3-1801. Definitions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 2, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-421.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 12-261. — D.C. Law 12-261, Title I, § 1236, provided:

Legislative history of Law 9-245. — “Sec. 1236. The Barber and Cosmetology Revision Act of 1992, effective March 17, 1993 (D.C. Law 9-245; D.C. Code § 2-421 et seq. § 3-1801 et seq., 2001 Ed.), is repealed and authority transferred to the Board of Barber and Cosmetology established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.]”

§ 3-1802. Barber and Cosmetology Board. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 3, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-422.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.

§ 3-1803. Qualifications of members. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 4, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-423.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.

§ 3-1804. Conflicts of interest. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 5, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-424.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.

§ 3-1805. Terms of members; filling of vacancies. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 6, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-425. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1806. Removal. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 7, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-426. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1807. Powers and duties. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 8, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-427. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1808. Officers; meetings; quorum. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 9, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-428. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1809. Compensation. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 10, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-429. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1810. Annual reports. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 11, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-430. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1811. General powers and duties of the Mayor. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 12, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-431. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1812. License required. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 13, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-432. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1813. Exemptions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 14, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-433. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1814. Licenses or certificates of registration issued pursuant to prior law. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 15, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-434. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1815. Permitted practice. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 16, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-435. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1816. Application for license. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 17, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-436. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1817. Qualifications of applicants. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 18, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-437. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1818. Reciprocity or endorsement. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 19, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-438. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1819. Inspections. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 20, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-439. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1820. Denial of license. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 21, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-440. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1821. Disciplinary action. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 22, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-441. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1822. Owners and managers. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 23, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-442. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1823. Voluntary surrender of occupational license. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 24, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-443. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1824. Term and renewal of license. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 25, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-444. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1825. Display of license; change of address. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 26, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-445. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1826. Reinstatement of expired license. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 27, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-446. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1827. Reinstatement of revoked licenses. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 28, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-447. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1828. Hearings. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 29, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-448. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1829. Summary actions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 30, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-449. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1830. Cease and desist orders. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 31, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-450. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1831. Judicial review. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 32, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-451. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1832. Prohibited acts. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 33, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-452. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1833. Criminal and civil sanctions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 34, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-453. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1834. Prosecutions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 35, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-454. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1835. Injunctions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 36, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-455. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

§ 3-1836. Regulations. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-245, § 39, 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-456. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-1801.
Legislative history of Law 12-261. — For

CHAPTER 19. BICENTENNIAL COMMISSION [REPEALED].

Sec.

3-1901 to 3-1906. [Repealed].

§ 3-1901. Findings of Council. [Repealed].

Repealed.

(July 25, 1987, D.C. Law 7-12, § 2, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3501.

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 3-1902. Definitions. [Repealed].

Repealed.

(July 25, 1987, D.C. Law 7-12, § 3, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3502.

Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-1901.

§ 3-1903. Establishment of District of Columbia Bicentennial Commission. [Repealed].

Repealed.

(July 25, 1987, D.C. Law 7-12, § 4, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3503.

Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-1901.

§ 3-1904. Funding. [Repealed].

Repealed.

(July 25, 1987, D.C. Law 7-12, § 5, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3504.

Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-1901.

§ 3-1905. Establishment of District of Columbia Bicentennial Fund. [Repealed].

Repealed.

§ 3-1906

DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

(July 25, 1987, D.C. Law 7-12, § 6, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3505. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-1901.
Legislative history of Law 12-86. — For

§ 3-1906. Duties. [Repealed].

Repealed.

(July 25, 1987, D.C. Law 7-12, § 7, 34 DCR 3783; Apr. 29, 1998, D.C. Law 12-86, § 401(c), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3506. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-1901.
Legislative history of Law 12-86. — For

CHAPTER 20. COSMETOLOGISTS [REPEALED].

Sec.

3-2001 to 3-2028. [Repealed].

§ 3-2001. Definitions. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 611, ch. 321, § 1; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-901. 1973 Ed. § 2-1301.

Legislative history of Law 9-245. — Law 9-245, the “Barber and Cosmetology Revision Act of 1992,” was introduced in Council and assigned Bill No. 9-500, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 6, 1993, it was assigned Act No. 9-388 and transmitted to both Houses of Congress for its review. D.C. Law 9-245 became effective on March 17, 1993.

Legislative history of Law 12-261. — Law

12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Repeal of Law 9-245. — Section 1236 of D.C. Law 12-261 transfers authority to the Board of Barber and Cosmetology established by § 47-2853.6 [§ 47-2853.06, 2001 Ed.].

§ 3-2002. Board of Cosmetology created; composition; qualifications; term of office; oath; vacancies; removal; officers; seal; quorum; meetings; records. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 612, ch. 321, § 2; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-902. 1973 Ed., § 2-1302.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2003. Rules and regulations. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 613, ch. 321, § 3; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-903. 1973 Ed., § 2-1303.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2004. Procedure for refusal, revocation, or suspension of license or certificate; reissuance. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 613, ch. 321, § 4; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-904. 1973 Ed., § 2-1304.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2005. Appeal from action of Board. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 613, ch. 321, § 5; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-905. 1973 Ed., § 2-1305.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2006. Practice of teaching of cosmetology without certificate of registration prohibited; exception. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 613, ch. 321, § 6; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-906. 1973 Ed., § 2-1306.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2007. Requirements to practice or teach. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 614, ch. 321, § 7; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-907. 1973 Ed., § 2-1307.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2008. Requirements for examination. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 614, ch. 321, § 8; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-908. 1973 Ed., § 2-1308.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2009. Limited certificate of registration. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 614, ch. 321, § 9; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-909. 1973 Ed., § 2-1309.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2010. School of cosmetology — Requirements for certificate of registration. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 614, ch. 321, § 10; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-910. 1973 Ed., § 2-1310.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2011. Student practice upon public. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 615, ch. 321, § 11; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-911. 1973 Ed., § 2-1311.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2012. Practice limited to registered beauty shops; exception; manager required. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 615, ch. 321, § 12; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-912. 1973 Ed., § 2-1312.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2013. Exceptions to examination requirements; temporary permits. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 615, ch. 321, § 13; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-913. 1973 Ed., § 2-1313.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2014. Apprentices in beauty shops. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 616, ch. 321, § 14; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-914. 1973 Ed., § 2-1314.

Legislative history of Law 9-245. — For

legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2015. Demonstrators. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 616, ch. 321, § 15; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-915. 1973 Ed., § 2-1315.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2016. Reciprocity. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 616, ch. 321, § 16; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-916. 1973 Ed., § 2-1316.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2017. Issuance of certificate or license; display. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 617, ch. 321, § 17; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-917. 1973 Ed., § 2-1317.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2018. Conduct of examinations. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 617, ch. 321, § 18; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-918. 1973 Ed., § 2-1318.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2019. Fees; expenses of Board; unexpended funds. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 617, ch. 321, § 19; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-919. 1973 Ed., § 2-1319.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2020. Persons called to aid of Board. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 618, ch. 321, § 20; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-920. 1973 Ed., § 2-1320.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2021. Sanitary regulations. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 618, ch. 321, § 21; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-921. 1973 Ed., § 2-1321.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2022. Hearings. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 618, ch. 321, § 22; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-922. 1973 Ed., § 2-1322.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2023. Temporary licenses. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 618, ch. 321, § 23; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-923. 1973 Ed., § 2-1323.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2024. Exemptions from chapter. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 619, ch. 321, § 24; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-924. 1973 Ed., § 2-1324.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2025. Expiration and renewal of certificate of registration. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 619, ch. 321, § 25; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-925. 1973 Ed., § 2-1325.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2026. Penalties. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 619, ch. 321, § 26; Oct. 5, 1985, D.C. Law 6-42, § 452, 32 DCR 4450; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-926. 1973 Ed., § 2-1326.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2027. Prosecution by Corporation Counsel. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 619, ch. 321, § 27; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-927. 1973 Ed., § 2-1327.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

§ 3-2028. Severability. [Repealed].

Repealed.

(June 7, 1938, 52 Stat. 620, ch. 321, § 28; Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660; Apr. 20, 1999, D.C. Law 12-261, § 1236, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-928. 1973 Ed., § 2-1328.

Legislative history of Law 9-245. — For legislative history of D.C. Law 9-245, see Historical and Statutory Notes following § 3-2001.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2001.

Repeal of Law 9-245. — See note to § 3-2001.

CHAPTER 21. DENTISTRY [REPEALED].

Sec.

3-2101 to 3-2133. [Repealed].

§§ 3-2101 to 3-2133. Board of Dental Examiners; duty of Secretary-Treasurer to enforce law; prosecutions; legal services to Board; investigations; annual reports; application for license; issuance of license; duplicate license; special licenses; declaration of policy; revocation or suspension of license; license fees; expenses of Board; compensation of Board members; annual registration; registration fee; penalty for failure to register; reinstatement; “practicing dentistry” defined; practicing under improper name; exemptions from application of chapter; display of license and annual registration card; sale of or offer to sell diploma, certificate, or license; fraudulent use; alteration; practice under false name; false representations concerning degree, application or examination; postgraduate classes without approval of Board prohibited; dental hygienists; practice without a license; second or subsequent conviction under §§ 3-2120 to 3-2122 and 3-2129; construction of personal pronouns; definitions; rules and regulations; imposition of civil fines, penalties, and fees; adjudications. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(a), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1201 to 2-1233.

CHAPTER 22. INTERIOR DESIGN LICENSURE [REPEALED].

Sec.

3-2201 to 3-2211. [Repealed.]

§ 3-2201. Definitions. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 2, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3401.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second read-

ings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

§ 3-2202. Board of Interior Designers; qualifications of members; terms of office. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 3, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3402.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.

§ 3-2203. Duties and powers of Board. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 4, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3403.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.

§ 3-2204. Duties of Mayor. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 5, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3404.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.

§ 3-2205. Examination. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 6, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3405. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2206. **Licensure of interior designers; waiver of examination. [Repealed].**

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 7, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3406. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2207. **License renewal. [Repealed].**

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 8, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3407. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2208. **Exemptions. [Repealed].**

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 9, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3408. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2209. **Signing of drawings and specifications. [Repealed].**

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 10, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3409. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2210. **Revocation, suspension, or denial of license. [Repealed].**

Repealed.

§ 3-2211

DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

(Feb. 24, 1987, D.C. Law 6-172, § 11, 33 DCR 7211; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3410. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

§ 3-2211. Penalty for illegal practice or use of title. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-172, § 12, 33 DCR 7211; Mar. 8, 1991, D.C. Law 8-237, § 16, 38 DCR 314; Apr. 20, 1999, D.C. Law 12-261, § 1232, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-3411. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2201.
Legislative history of Law 12-261. — For

CHAPTER 23. NURSES, THERAPISTS, AND PSYCHOLOGISTS [REPEALED].

Subchapter I. Registered Nurses

Sec.

3-2301.01 to 3-2301.10. [Repealed].

Subchapter II. Practical Nurses

3-2302.01 to 3-2302.19. [Repealed].

Subchapter III. Physical Therapists

3-2303.01 to 3-2303.21. [Repealed].

Subchapter IV. Psychologists

Sec.

3-2304.01 to 3-2304.18. [Repealed].

Subchapter V. Occupational Therapists

3-2305.01 to 3-2305.18. [Repealed].

Subchapter I. Registered Nurses.

§§ 3-2301.01 to 3-2301.10. Registration required generally; Nurses' Examining Board; application for examination and registration; fee; qualifications; registration of training schools; registration without examination; annual registration of nurses and schools; fees; failure to reregister; restoration; appeal from denial of registration or reregistration; filing of false document or evidence; expenses to be paid from fees; salary of Executive Secretary; penalties; gratuitous or for-hire nursing. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(b), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1701.1 to 2-1701.10.

Subchapter II. Practical Nurses.

§§ 3-2302.01 to 3-2302.19. Definitions; exemption of federal employees; gratuitous or for-hire nursing; use of title or abbreviation; Mayor authorized to delegate functions; Practical Nurses' Examining Board; rules and regulations; curricula and standards for schools; accreditation; affiliation of programs; studies and investigations; subpoenas; qualifications of applicant; examinations; issuance of license without examination; fee; closed applications; reopening; expiration of license; annual renewal; reinstatement of lapsed licensees;

nonpracticing list; accreditation of schools of practical nursing; fees; denial, revocation, or suspension of license or certificate of renewal; review of decisions and orders of Mayor; unlawful acts; penalty for violation of § 3-2302.04 or § 3-2302.14; prosecution for violation of § 3-2302.04 or § 3-2302.14; severability; appropriations; effective date. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(f), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1702.1 to 2-1702.19.

Subchapter III. Physical Therapists.

§§ 3-2303.01 to 3-2303.21. Definitions; exemption of federal employees; registration required; use of title or abbreviation; exceptions; Mayor authorized to delegate functions; Physical Therapists' Examining Board; rules and regulations; register of physical therapists and approved schools; studies and investigations; subpoenas; registration of qualified applicants; issuance of certificates; examination; qualifications of applicants; reciprocity; annual renewal of registration; reinstatement of lapsed registrants; nonpracticing list; fee; denial, revocation, and suspension of registration or certificate of registration; review of decisions or orders of Mayor; unlawful acts; practice of registered physical therapists limited; violation of § 3-2303.03, § 3-2303.13, or § 3-2303.14; prosecution for violation of § 3-2303.03, § 3-2303.13, or § 3-2303.14; fees; public hearing required; disposition of moneys collected; severability; appropriations; construction; effective date. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(g), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1703.1 to 2-1703.21.

Subchapter IV. Psychologists.

§§ 3-2304.01 to 3-2304.18. Declaration; definitions; problems beyond psychologist's competence; medical problems; restrictions on practice; practice without license or certificate prohibited; exemptions; duties of Mayor; Board of Psychologist Examiners; qualifications of applicants; examination; fee; license without examination; reciprocity; regulations; fees; annual renewal of license or certificate; lapse; reinstatement; inactive status; reactivation; refusal, revocation, or suspension of license or certificate; procedure for suspension or revocation of license or certificate; penalty for unauthorized practice; enjoining unauthorized practice; Mayor to enforce subchapter; psychologist-patient privilege; appropriations; severability. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(h), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1704.1 to 2-1704.18.

Subchapter V. Occupational Therapists.

§§ 3-2305.01 to 3-2305.18. Purpose; definitions; license required; exceptions; Board of Occupational Therapy Practice; requirements for licensure; examination; waiver of requirements for licensure; issuance of license; use of title or abbreviation; limited permit; denial or refusal to renew license; suspension or revocation; probationary conditions; reinstatement; renewal of license; registration of nonpracticing therapists; fees; unlawful acts; penalties; severability. [Repealed].

Repealed.

§ 3-2305.18 DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

(Mar. 25, 1986, D.C. Law 6-99, § 1104(i), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1705.1 to 2-1705.18.

CHAPTER 24. OPTOMETRISTS [REPEALED].

Sec.

3-2401 to 3-2422. [Repealed].

§§ 3-2401 to 3-2422. Practice of “optometry” defined; unlawful acts; Board of Optometry; Secretary-Treasurer required to give bond; compensation; expenses of Board; official seal; records; reports; examination to practice optometry required; limited examination; standard examination; changes in educational standards authorized; application for license; number of examinations required; reexamination; issuance of license; display; fees; revocation of license; reinstatement; temporary retirement; adoption of seal and license; Board to have office in District; refusal to grant license; cancellation, revocation, or suspension; grounds; hearing on charges; reciprocity; use of title, word, or abbreviation by licensee restricted; exemptions from chapter; singular number to include plural; masculine gender to include feminine; severability. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(d), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1801 to 2-1822.

CHAPTER 25. PLUMBERS [REPEALED].

Sec.

3-2501 to 3-2508. [Repealed].

§ 3-2501. Plumbing Board authorized; appointment; composition. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2101.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Editor’s notes. — This section was previously omitted.

D.C. Law 12-261, Title I, § 1237 provided: “Sec. 1237. An Act To regulate plumbing and gasfitting in the District of Columbia, approved June 18, 1898 (30 Stat. 477; D.C. Code § 2-2101 et seq. § 3-2501 et seq., 2001 Ed.), is repealed and authority thereunder is transferred to the Board of Industrial Trades established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.]”

§ 3-2502. Licenses — Examination of applicants; issuance. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 2; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2102. 1973 Ed., § 2-1402.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

§ 3-2503. Licenses — Application. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 3; July 14, 1932, 47 Stat. 659, ch. 476, § 3; July 22, 1976, D.C. Law 1-75, § 3(g), 23 DCR 1178; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2103. 1973 Ed., § 2-1403.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

§ 3-2504. Bond. [Repealed].

Repealed.

(Apr. 23, 1892, 27 Stat. 21, ch. 53, § 2; Mar. 3, 1893, 27 Stat. 543, ch. 199; Apr.

20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142; Apr. 12, 2000, D.C. Law 13-91, § 132, 47 DCR 520.)

Prior Codifications. — 1981 Ed., § 2-2104. 1973 Ed., § 2-1404.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

Legislative history of Law 13-91. — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill

No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

§ 3-2505. Licenses — Renewal; fees; suspension or revocation. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 4; July 14, 1932, 47 Stat. 659, ch. 476, § 4; Sept. 14, 1976, D.C. Law 1-82, title V, § 503, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 205, 30 DCR 2632; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2105. 1973 Ed., § 2-1405.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

§ 3-2506. Licenses — Required. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 5; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2106. 1973 Ed., § 2-1406.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

§ 3-2507. Employment of unlicensed person prohibited. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 6; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2107. 1973 Ed., § 2-1407.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.

§ 3-2508. Penalty; prosecutions. [Repealed].

Repealed.

(June 18, 1898, 30 Stat. 477, ch. 467, § 8; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570,

Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 474, 32 DCR 4450; Apr. 20, 1999, D.C. Law 12-261, § 1237, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2108. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2501.
1973 Ed., § 2-1408.

Legislative history of Law 12-261. — For

CHAPTER 26. PODIATRY [REPEALED].

Sec.
3-2601 to 3-2620. [Repealed].

§§ 3-2601 to 3-2620. Board of Podiatry Examiners; duty of Secretary-Treasurer to enforce law; prosecutions; legal services to Board; investigations; license; fees; disposition; annual registration; fees; failure to register; reinstatement; “practicing podiatry” defined; exemptions from chapter; display of license and annual registration card; sale of or offer to sell diploma, certificate, or license; fraudulent use; alteration; practice under false name; false representations concerning degree, application, or examination; postgraduate classes without approval prohibited; practice without a license; construction of personal pronouns; definitions; rules and regulations; imposition of civil fines, penalties, and fees; adjudications. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(c), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-2201 to 2-2220.

CHAPTER 27. STEAM AND OTHER OPERATING ENGINEERS [REPEALED].

Sec.

3-2701 to 2-2708. [Repealed].

§ 3-2701. License required. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 1, Mar. 4, 1925, 43 Stat. 1284, ch. 545; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2401. 1973 Ed., § 2-1501.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Con-

gress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Editor’s notes. — D.C. Law 12-261, Title I, § 1238 provided: “Sec. 1238. An Act to regulate steam-engineering in the District of Columbia, approved February 28, 1887 (24 Stat. 427; D.C. Code § 2-2401 et seq. § 3-2701 et seq., 2001 Ed.), is repealed and authority thereunder transferred to the Board of Industrial Trades established by D.C. Code § 47-2853.6 [§ 47-2853.06, 2001 Ed.]”

§ 3-2702. Board of Examiners. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2402.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.

Editor’s notes. — This section was previously omitted.

§ 3-2703. Qualification of applicants; application. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 3; Mar. 4, 1925, 43 Stat. 1284, ch. 545; July 22, 1976, D.C. Law 1-75, § 3(h), 23 DCR 1178; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2403. 1973 Ed., § 2-1503.

Legislative history of Law 12-261. — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.

§ 3-2704. License fee. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 4; Mar. 4, 1925, 43 Stat. 1284, ch. 545; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2404. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.
1973 Ed., § 2-1504.

Legislative history of Law 12-261. — For

§ 3-2705. Revocation of license for intoxication. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 5; Mar. 4, 1925, 43 Stat. 1284, ch. 545; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2405. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.
1973 Ed., § 2-1505.

Legislative history of Law 12-261. — For

§ 3-2706. Employment of unlicensed person; exemption. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 6; Mar. 4, 1925, 43 Stat. 1284, ch. 545; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2406. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.
1973 Ed., § 2-1506.

Legislative history of Law 12-261. — For

§ 3-2707. Exemptions from chapter. [Repealed].

Repealed.

(Feb. 28, 1887, 24 Stat. 427, ch. 272, § 7; Mar. 4, 1925, 43 Stat. 1284, ch. 545; July 31, 1939, 53 Stat. 1143, ch. 398; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2407. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.
1973 Ed., § 2-1507.

Legislative history of Law 12-261. — For

§ 3-2708. Imposition of civil fines, penalties, and fees; adjudications. [Repealed].

Repealed.

(Feb. 28, 1887, ch. 272, § 8, as added Oct. 5, 1985, D.C. Law 6-42, § 482, 32 DCR 4450; Apr. 20, 1999, D.C. Law 12-261, § 1238, 46 DCR 3142.)

Prior Codifications. — 1981 Ed., § 2-2408. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 3-2701.
Legislative history of Law 12-261. — For

CHAPTER 28. TASK FORCE ON HUNGER [REPEALED].

Sec.
3-2801 to 2-2806. [Repealed].

§ 3-2801. Task Force on Hunger established. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 2, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3701.
Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 3-2802. Powers and duties of the Task Force. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 3, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3702.
Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-2801.

§ 3-2803. Compensation and expenses of the Task Force members. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 4, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3703.
Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-2801.

§ 3-2804. Staffing and budget. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 5, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3704.
Legislative history of Law 12-86. — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-2801.

§ 3-2805. Rules. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 6, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3705. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-2801.
Legislative history of Law 12-86. — For

§ 3-2806. Applicability. [Repealed].

Repealed.

(Mar. 6, 1991, D.C. Law 8-201, § 7, 37 DCR 7476; Apr. 29, 1998, D.C. Law 12-86, § 401(d), 45 DCR 1172.)

Prior Codifications. — 1981 Ed., § 2-3706. legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 3-2801.
Legislative history of Law 12-86. — For

CHAPTER 29. HEALING ARTS PRACTICE [REPEALED].

Subchapter I. Regulatory Provisions

Sec.

3-2901 to 3-2943. [Repealed].

Subchapter I. Regulatory Provisions.

§§ 3-2901 to 3-2943. Definitions; license required; Commission on Licensure to Practice the Healing Art; boards of examiners; appointment; composition; term of office; qualifications; compensation; officers; rules; Board of Examiners in Basic Sciences; Board of Examiners in Medicine and Osteopathy; boards of examiners in drugless methods of healing; Board of Examiners in Midwifery; examinations; issuance of licenses based on reports of boards; examination papers open to inspection; retention of papers; record of licenses issued; numbering of licenses; display; applications for licenses; contents; fees; exemption from fees; refunds; licensees in medicine, surgery, or midwifery under prior law to be relicensed; osteopaths, chiropractors, and those who practice the healing art to apply for license; license without examination to those engaged in practice of drugless method of healing; issuance of license by endorsement; certificate or diploma from national examining board or completion of examination by Federation of State Medical Boards; evidence required with application for license; temporary licenses; procedures and standards for imposition of sanctions against licensees; filing false data with Commission; disclosure of applicant's identity number; impersonation of applicant; premature disclosure of examination; impersonation of licensee; altering or forging diploma, certificate, or seal of Commission; unfair rating of applicants; false swearing; license or registration refused for cause; procedure; penalties;

subsequent offenses; suspension or revocation of license upon conviction of felony; enjoining unlawful practice of healing art; procedure; exemptions from subchapter; money paid to Director of Department of Finance and Revenue; deposits; payment of expenses; compensation of members of boards and employees of Commission; transfer of records, property, and money to Commission; enforcement; annual report to Congress; short title; transfer of provisions; inconsistent laws repealed. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1104(e), 33 DCR 729.)

Prior Codifications. — 1981 Ed., §§ 2-1301 to 2-1343.

CHAPTER 30. ALZHEIMER'S DISEASE STUDY COMMISSION [Expired].

Sec.

3-3001. Alzheimer's Disease Study Commission established. [Expired].

3-3002. Duties. [Expired].

Sec.

3-3003. Report. [Expired].

3-3004. Expenses; office space. [Expired].

§ 3-3001. Alzheimer's Disease Study Commission established. [Expired].

Expired.

(Mar. 8, 1991, D.C. Law 8-241, § 2, 38 DCR 341.)

Prior Codifications. — 1981 Ed., § 2-3801.

Legislative history of Law 8-241. — Law 8-241, the "Alzheimer's Disease Study Commission Act of 1990," was introduced in Council and assigned Bill No. 8-479, which was referred to the Committee on Human Services. The Bill

was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-324 and transmitted to both Houses of Congress for its review.

§ 3-3002. Duties. [Expired].

Expired.

(Mar. 8, 1991, D.C. Law 8-241, § 3, 38 DCR 341.)

Prior Codifications. — 1981 Ed., § 2-3802.

Legislative history of Law 8-241. — For

legislative history of D.C. Law 8-241, see Historical and Statutory Notes following § 3-3001.

§ 3-3003. Report. [Expired].

Expired.

(Mar. 8, 1991, D.C. Law 8-241, § 4, 38 DCR 341.)

Prior Codifications. — 1981 Ed., § 2-3803.

Legislative history of Law 8-241. — For

legislative history of D.C. Law 8-241, see Historical and Statutory Notes following § 3-3001.

§ 3-3004. Expenses; office space. [Expired].

Expired.

(Mar. 8, 1991, D.C. Law 8-241, § 5, 38 DCR 341.)

Prior Codifications. — 1981 Ed., § 2-3804.

Legislative history of Law 8-241. — For

legislative history of D.C. Law 8-241, see Historical and Statutory Notes following § 3-3001.

CHAPTER 31. BUSINESS REGULATORY REFORM COMMISSION [EXPIRED].

Sec.

3-3101. Business Regulatory Reform Commission. [Expired].

Sec.

3-3102. Duties of the Commission; recommended legislation. [Expired].

§ 3-3101. Business Regulatory Reform Commission. [Expired].

Expired.

(Mar. 16, 1995, D.C. Law 10-212, § 2, 41 DCR 8029; Apr. 9, 1997, D.C. Law 11-255, § 7, 44 DCR 1271.)

Cross references. — Review and revision of regulations and permit and application processes, see § 47-395.

Prior Codifications. — 1981 Ed., § 2-4101.

Legislative history of Law 10-212. — Law 10-212, the “Business Regulatory Reform Commission Act of 1994,” was introduced in Council and assigned Bill No. 10-481, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 15, 1994, it was assigned Act No. 10-349 and transmitted to both

Houses of Congress for its review. D.C. Law 10-212 became effective on March 16, 1995.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

§ 3-3102. Duties of the Commission; recommended legislation. [Expired].

Expired.

(Mar. 16, 1995, D.C. Law 10-212, § 3, 41 DCR 8029.)

Prior Codifications. — 1981 Ed., § 2-4102.
Legislative history of Law 10-212. — For

legislative history of D.C. Law 10-212, see Historical and Statutory Notes following § 3-3101.

CHAPTER 32. COMMISSION ON BASEBALL [EXPIRED].

Sec.
3-3201 to 3-3208. [Expired].

Sec.
3-3209 to 3-3215. [Expired].

§§ 3-3201 to 3-3208. Definitions; established; duties; composition; term of office; quorum; vacancies; reimbursement of members' expenses; meetings; employment of consultant authorized; functions; quarterly report; comprehensive report; appropriations; grants; gifts and donations; District of Columbia Commission on Baseball Fund.

Expired.

Prior Codifications. — 1981 Ed., §§ 2-2901 to 2-2908.

Legislative history of Law 5-112. — Law 5-112, the "District of Columbia Commission on Baseball Act of 1984," was introduced in Council and assigned Bill No. 5-391, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on June 26, 1984, and July 10, 1984, respectively. Signed by the

Mayor on July 13, 1984, it was assigned Act No. 5-162 and transmitted to both Houses of Congress for its review.

Editor's notes. — Expiration. Section 10(b) of D.C. Law 5-112, as amended by § 2(d) of D.C. Law 7-11, provided that the act shall expire 6 years after its effective date. D.C. Law 5-112 became effective on Sept. 26, 1984. Sections 2-2901 to 2-2908 §§ 3-3201 to 3-3208, 2001 Ed. expired Sept. 26, 1990.

§§ 3-3209 to 3-3215. Establishment; composition; vacancies; quorum; meetings; compensation; employment of consultant; comprehensive report; appropriations; grants; gifts and donations; Baseball fund.

Expired.

Prior Codifications. — 1981 Ed., §§ 2-2909 to 2-2915.

Legislative history of Law 9-54. — Law 9-54, the "District of Columbia Commission on Baseball Act of 1991," was introduced in Council and assigned Bill No. 9-112, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on July 2, 1991, and October 1, 1991,

respectively. Signed by the Mayor on October 23, 1991, it was assigned Act No. 9-96 and transmitted to both Houses of Congress for its review.

Expiration Section 9(b) of D.C. Law 9-54 provided that the act shall expire 2 years after Dec. 10, 1991. D.C. Law 9-54 enacted former §§ 2-2909 through 2-2915 [§§ 3209 through 3-3215, 2001 Ed.].

CHAPTER 33. DOMESTIC PARTNERSHIP BENEFITS [EXPIRED].

Sec.

3-3301. Commission; established. [Expired].

3-3302. Membership of Commission. [Expired].

3-3303. Rules of procedure. [Expired].

Sec.

3-3304. Duties. [Expired].

3-3305. Mayoral review and transmittal to Council. [Expired].

§ 3-3301. Commission; established. [Expired].

Expired.

(Sept. 29, 1988, D.C. Law 7-156, § 2, 35 DCR 5720.)

Prior Codifications. — 1981 Ed., § 2-3601.**Legislative history of Law 7-156.** — Law 7-156, the “Commission on Domestic Partnership Benefits for District of Columbia Government Employees Establishment Act of 1988,” was introduced in Council and assigned Bill No. 7-465, which was referred to the Committee

on Government Operations. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-211 and transmitted to both Houses of Congress for its review.

§ 3-3302. Membership of Commission. [Expired].

Expired.

(Sept. 29, 1988, D.C. Law 7-156, § 3, 35 DCR 5720.)

Prior Codifications. — 1981 Ed., § 2-3602.**Legislative history of Law 7-156.** — For

legislative history of D.C. Law 7-156, see Historical and Statutory Notes following § 3-3301.

§ 3-3303. Rules of procedure. [Expired].

Expired.

(Sept. 29, 1988, D.C. Law 7-156, § 4, 35 DCR 5720.)

Prior Codifications. — 1981 Ed., § 2-3603.**Legislative history of Law 7-156.** — For

legislative history of D.C. Law 7-156, see Historical and Statutory Notes following § 3-3301.

§ 3-3304. Duties. [Expired].

Expired.

(Sept. 29, 1988, D.C. Law 7-156, § 5, 35 DCR 5720.)

Prior Codifications. — 1981 Ed., § 2-3604.**Legislative history of Law 7-156.** — For

legislative history of D.C. Law 7-156, see Historical and Statutory Notes following § 3-3301.

§ 3-3305. Mayoral review and transmittal to Council. [Expired].

Expired.

(Sept. 29, 1988, D.C. Law 7-156, § 6, 35 DCR 5720.)

Prior Codifications. — 1981 Ed., § 2-3605. legislative history of D.C. Law 7-156, see Historical and Statutory Notes following § 3-3301.
Legislative history of Law 7-156. — For

CHAPTER 34. COMMISSION ON HOUSING PRODUCTION [EXPIRED].

Sec.

3-3401 to 3-3405. [Expired].

§§ 3-3401 to 3-3405. Definitions; established; duties; composition; qualifications; term of office; vacancies; quorum; meetings and public hearings; access to documents; annual report; reimbursement of members' expenses; funding. [Expired].

Expired.

Prior Codifications. — 1981 Ed., §§ 2-3001 to 2-3005.

CHAPTER 35. COMMISSION FOR MEN [Expired].

Sec.

3-3501 to 3-3506. [Expired].

§ 3-3501. Establishment of advisory task force on men. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 2, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3901.

Legislative history of Law 10-72. — Law 10-72, the “Commission for Men Act of 1993,” was introduced in Council and assigned Bill No. 10-104, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on September 21, 1993, and October 5, 1993,

respectively. Signed by the Mayor on October 26, 1993, it was assigned Act No. 10-128 and transmitted to both Houses of Congress for its review. D.C. Law 10-72 became effective on February 23, 1994.

Expiration of Law 10-72. — Section 8(b) of D.C. Law 10-72 provided that the act shall expire 3 years after its effective date.

§ 3-3502. Establishment of Commission for Men. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 3, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3902.

Legislative history of Law 10-72. — For legislative history of D.C. Law 10-72, see Historical and Statutory Notes following § 3-3501.

Expiration of Law 10-72. — See note to § 3-3501.

§ 3-3503. Qualifications; terms of office. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 4, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3903.

Legislative history of Law 10-72. — For legislative history of D.C. Law 10-72, see Historical and Statutory Notes following § 3-3501.

Expiration of Law 10-72. — See note to § 3-3501.

§ 3-3504. Compensation. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 5, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3904.

Legislative history of Law 10-72. — For legislative history of D.C. Law 10-72, see Historical and Statutory Notes following § 3-3501.

Expiration of Law 10-72. — See note to § 3-3501.

§ 3-3505. Powers of the Commission. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 6, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3905.

Expiration of Law 10-72. — See note to

Legislative history of Law 10-72. — For § 3-3501.
legislative history of D.C. Law 10-72, see Historical and Statutory Notes following § 3-3501.

§ 3-3506. Administration. [Expired].

Expired.

(Feb. 23, 1994, D.C. Law 10-72, § 7, 40 DCR 7585.)

Prior Codifications. — 1981 Ed., § 2-3906.

Expiration of Law 10-72. — See note to

Legislative history of Law 10-72. — For § 3-3501.
legislative history of D.C. Law 10-72, see Historical and Statutory Notes following § 3-3501.

CHAPTER 36. SECURITY AGENTS AND BROKERS [REPEALED].

Sec.

3-3601 to 3-3619. [Repealed.]

§ 3-3601. Definitions. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 620, Pub. L. 88-503, § 2; May 21, 1997, D.C. Law 11-268, § 10(a)(1), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2601. 1973 Ed., § 2-2401.

Legislative history of Law 11-268. — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective on May 21, 1997.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3602. Fraudulent acts unlawful. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 623, Pub. L. 88-503, § 32; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2602. 1973 Ed., § 2-2402.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3603. License — Required; expiration. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 623, Pub. L. 88-503, § 4; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2603. 1973 Ed., § 2-2403.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3604. License — Application; fees; net capital requirements; bond; renewal. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 5; Mar. 5, 1981, D.C. Law 3-133, § 2(a)-(e), 27 DCR 4417; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2604. 1973 Ed., § 2-2404.

Legislative history of Law 3-133. — For legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was intro-

duced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3605. Unlawful representations. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 6; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2605. 1973 Ed., § 2-2405.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3606. Records; reports. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 7; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 5(a), 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2606. 1973 Ed., § 2-2406.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 12-81. — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the

Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was

assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3607. Filing of sales and advertising literature. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 8; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2607. 1973 Ed., § 2-2407.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3608. False or misleading filings. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 626, Pub. L. 88-503, § 9; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2608. 1973 Ed., § 2-2408.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3609. Denial, revocation, suspension, cancellation, and withdrawal of license. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 626, Pub. L. 88-503, § 10; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 5(b), 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2609. 1973 Ed., § 2-2409.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see note in § 3-3606.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was

assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3610. Investigations. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 628, Pub. L. 88-503, § 11; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(11)(A); May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 5(c), 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2610. 1973 Ed., § 2-2410.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see note to § 3-3606.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was intro-

duced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3611. Injunctions. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 12; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(11) (B); May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2611. 1973 Ed., § 2-2411.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3612. Criminal penalties. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 13; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2612. 1973 Ed., § 2-2412.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3613. Civil liabilities. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 14; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2613. 1973 Ed., § 2-2413.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3614. Civil penalties. [Repealed].

Repealed.

(Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; Oct. 5, 1985, D.C. Law 6-42, § 407, 32 DCR 4450; May 21, 1997, D.C. Law 11-268, § 10, 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2614.

Legislative history of Law 3-133. — Law 3-133, the “Securities Act Amendments, Personnel Act Clarification, and Voluntary Retirement Act of 1980,” was introduced in Council and assigned Bill No. 3-273, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 29, 1980, and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-254 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3615. Application of chapter; service of process. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 630, Pub. L. 88-503, § 15; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; May 21, 1997, D.C. Law 11-268, § 10(a)(2), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 5(d), 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2615. 1973 Ed., § 2-2414.

Legislative history of Law 3-133. — For

legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 11-268. — For

legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see note to § 3-3606.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3616. Administration of chapter. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 632, Pub. L. 88-503, § 16; Mar. 3, 1979, D.C. Law 2-139, § 3205(f), 25 DCR 5740; June 14, 1980, D.C. Law 3-70, § 7(a), 27 DCR 1776; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; May 21, 1997, D.C. Law 11-268, § 10(a)(3), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2616. 1973 Ed., § 2-2415.

Legislative history of Law 2-139. — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978, and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-70. — Law 3-70, the “District of Columbia Fund Accounting Act of 1980,” was introduced in Council and assigned Bill No. 3-197, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively.

Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

Legislative history of Law 3-133. — For legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3617. District of Columbia Securities Advisory Committee. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 633, Pub. L. 88-503, § 18; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; May 21, 1997, D.C. Law 11-268, § 10(a)(4), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 5(e), 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2617. 1973 Ed., § 2-2416.

Legislative history of Law 3-133. — For legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 11-268. — For

legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3601.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see note to § 3-3606.

Legislative history of Law 13-203. — Law

13-203, the "Securities Act of 2000," was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 3-3618. Severability. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 633, Pub. L. 88-503, § 19; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2618. 1973 Ed., § 2-2417.

Legislative history of Law 3-133. — For legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 13-203. — Law 13-203, the "Securities Act of 2000," was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3619. Change of name of Public Utilities Commission. [Repealed].

Repealed.

(Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2619. 1973 Ed., § 2-2418.

Legislative history of Law 3-133. — For legislative history of D.C. Law 3-133, see Historical and Statutory Notes following § 3-3614.

Legislative history of Law 13-203. — Law 13-203, the "Securities Act of 2000," was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

CHAPTER 37. INVESTMENT ADVISERS [REPEALED].

Sec.

3-3701 to 3-3721. [Repealed].

§ 3-3701. Definitions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 2, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(1), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 6, 45 DCR 745; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2631.

Legislative history of Law 9-216. — Law 9-216, the “Investment Advisers Act of 1992,” was introduced in Council and assigned Bill No. 9-495, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 4, 1992, and December 1, 1992, respectively. Signed by the Mayor on December 21, 1992, it was assigned Act No. 9-345 and transmitted to both Houses of Congress for its review. D.C. Law 9-216 became effective on March 17, 1993.

Legislative history of Law 11-268. — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective on May 21, 1997.

Legislative history of Law 12-81. — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 22, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3702. Advisory activities. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 3, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2632.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3703. Misleading filings. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 4, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2633.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3704. Unlawful representation concerning registration or exemption. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 5, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2634.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3705. Registration requirement. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 6, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2635.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3706. Registration procedures. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 7, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2636.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3707. Post-registration provisions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 8, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2637.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3708. Denial, revocation, suspension, bar, censure, cancellation, and withdrawal of registration. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 9, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2638.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law

13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to

both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3709. Alternative methods of registration. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 10, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2639.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3710. Administration. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 11, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2640.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3711. Investigations and subpoenas. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 12, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2641.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law

13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to

both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3712. Injunctions; cease and desist orders. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 13, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2642.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3713. Rules, forms, orders, and hearings. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 14, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2643.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3714. Administrative files and opinions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 15, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2644.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law

13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to

both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3715. Civil liabilities. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 16, 40 DCR 37; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2645.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3716. Civil penalties. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 17, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2646.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3717. Criminal penalties. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 18, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2647.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law

13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to

both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3718. Burden of proof. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 19, 40 DCR 37; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2648.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3719. Scope of the chapter; service of process. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 20, 40 DCR 37; May 21, 1997, D.C. Law 11-268, § 10(b)(2), 44 DCR 1730; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2649.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3720. Statutory policy. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 21, 40 DCR 37; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2650.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

§ 3-3721. Severability. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-216, § 22, 40 DCR 37; Oct. 26, 2000, D.C. Law 13-203, § 804(a), 47 DCR 7837.)

Prior Codifications. — 1981 Ed., § 2-2651.

Legislative history of Law 9-216. — For legislative history of D.C. Law 9-216, see Historical and Statutory Notes following § 3-3701.

Legislative history of Law 13-203. — Law 13-203, the “Securities Act of 2000,” was introduced in Council and assigned Bill No. 13-678, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 11, 2000, it was assigned Act No. 13-436 and transmitted to both Houses of Congress for its review. D.C. Law 13-203 became effective on October 26, 2000.

